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SUPREME COURT OF THE UNITED STATES.

No. 152.

JOHN HOWLAND, SAMUEL MEEKER, JOHN CHADWICK AND OLIVER S. HALSTEAD, JR., CLAIMANTS OF THE BARQUE GRIFFIN, HER TACKLE, &c., APPELLANTS,

vs.

JOHN GREENWAY AND GEORGE C. DICKSON, LIBELLANTS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW YORK.

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United States of America,
Southern District of New York, ss.

I, Kenneth G. White, clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify that the writings annexed to this certificate are true copies of their respective originals on file,
1 and remaining of record in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this eighth
[L. S.] day of December, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of
2 the said United States the eighty-third.

KENNETH G. WHITE,
Clerk.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the City Hall, in the city of New York, on Tuesday, the tenth day of July, in the year of our Lord one thousand eight hundred and
3 fifty-five.

Present, the Honorable Samuel R. Betts, district judge.

John Greenway et al.
vs. } 10. 522.
4 The Barque Griffin, her tackle, &c.,

1853, May 6th. The libellants file their libel in the words and figures following, to wit:

To the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York:

The libel of John Greenway and George C. Dickson, of Rio de Janeiro, merchants and copartners under the firm of Greenway & Co., against the barque Griffin, whereof one Halstead was master, her tackle, apparel and furniture, and against Oliver S. Halsted, James Smith, John Kennedy, Samuel Meeker, John
5 Chadwick and John Howland, owners of said barque, and against all persons intervening for their interest therein, in a cause of contract, civil and maritime, alleges as follows:

First. That in or about the month of November, A. D. 1852, Messrs. Leland & Dawson, a mercantile firm in the city of New York, shipped on board said barque, then lying in said city, 132 boxes containing chairs and furniture, to be carried in said

6 barque from said city to Rio de Janeiro aforesaid, for the
freight of fifteen cents per cubic foot, with five per cent. primage and average accustomed, to be paid therefor, and to be delivered at the last mentioned place to the libellants, or their
7 assignees, they paying the said freight and primage, the entire
freight and primage amounting to the sum of four hundred and eleven dollars and fifty-four cents.

Second. That the said Halsted, then master of said barque, received the said goods on board of her for the purposes aforesaid, and executed and delivered to the libellants, or in their behalf, a certain bill of lading now in the libellants' possession, a
8 true copy of which is hereunto annexed, marked Schedule
A.

Third. That the said bark proceeded with the said goods on board of her to the port of Rio de Janeiro, and arrived there on or about the month of February, A. D. 1853; but notwithstanding that the libellants were then and there at all times ready and willing to receive said goods there in good order, and to pay the freight and primage aforesaid, yet the said master has not
9 yet delivered the said goods to the libellants or their assigns,
in good order or otherwise, but has wholly neglected and refused so to do.

Fourth. That, as the libellants are informed and believe, the said barque was a general vessel; that the custom-house regulations and the laws of the port of Rio de Janeiro required that the masters of vessels arriving there, or the vessel's owner or agent, should make out a correct list or manifest of the cargo on board,
10 specifying the different parcels and shipments, which list or
manifest is an essential and necessary ship's paper, and is required to be furnished by her master or owner at that port, and that goods not mentioned in said list or manifest cannot by the laws of Brazil be passed through the custom-house at Rio de Janeiro, and are subject to seizure and confiscation by the Brazilian government on account of such neglect and omission.

That said master made out such a list or manifest, but
11 the said one hundred and thirty-two cases were not men-
tioned or specified therein, and the said master wholly *wholly* neglected and omitted to mention them thereon, and by reason of such neglect and omission the said goods were, at or shortly after the arrival of the said barque at Rio de Janeiro, seized by the revenue officers there, and kept by them in their possession and control, on the claim that they were confiscated to the use of the government of that place, and, as the libellants
12 are informed and believe, the said goods were and are con-
fiscated by said government by reason of the premises and by reason of the said master's default.

Fifth. That the libellants have hitherto demanded the delivery
of said goods to them at Rio de Janeiro aforesaid, and offered to
pay the freight therein; that the value thereof at that place at or
about the time of the arrival of the said barque there, was
13 five thousand nine hundred and eleven dollars and fifty-one
cents, and that the said goods are wholly lost to the libellants,
who are the true and only consignees thereof, by reason of
the neglect of the said master to deliver the same pursuant to said
bill of lading.

Sixth. That the said barque is now in the port of New York, as the libellants are informed and believe, and that she is shortly to depart therefrom.

Seventh. That all and singular the premises are true, and within
the admiralty and maritime jurisdiction of the United States and
of this honorable court.

14 Wherefore the libellants pray that process in due form of
law, according to the course of this honorable court in cases
of admiralty and maritime jurisdiction, may issue against the said
barque Griffin, her tackle, apparel, and furniture, and that Oliver
S. Halsted, James Smith, John Kennedy, Samuel Meeker,
John Chadwick, and John Howland, owners of said barque, and
all other persons having or pretending to have any interest in the
said vessel, may be cited to appear and answer the matters
15 aforesaid, and that this honorable court will be pleased to
decree to the libellants the sum of five thousand nine hundred
and eleven dollars and fifty-one cents, and interest thereon from the
first day of February last, the libellants' damages for the non-delivery
of said goods pursuant to the said bill of lading, and the premises,
with costs, and that said vessel may be condemned and sold
to pay the same, and that the libellants may have such other and
further relief in the premises as in law and justice they
16 may be entitled to receive.

WEEKS & DE FORREST,
Libellants' Proctors and Advocates.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Edward F. Davison, of said district, being duly sworn, saith that
he is the attorney in fact of John Dickson and John Greenway,
both of whom are engaged in business in Rio de Janeiro,
17 and are absent from the State of New York; that he has the
bill of lading mentioned in the foregoing libel and other documents
relating to the matters therein stated in his possession,
and himself attended to the shipment of the goods therein mentioned;
that he hath heard read the said libel and knows the contents
thereof, and that the matters therein stated are true to the
best of his knowledge, information, and belief.

EDW'D F. DAVISON.

Sworn to before me, this 6th day of May, A. D. 1853.

JOSEPH BRIDGHAM,
U. S. Com'r.

Schedule A.

Shipped in good order and well conditioned, by Leland & Davison, on board the bark called the Griffin, whereof Halsted is
master, now lying in the port of New York, and
M. O. Abranches & Co. bound for Rio de Janeiro—to say, one hundred and thirty-two boxes chairs and furniture, to be
delivered at the ship's tackles, being marked and
18,19 numbered as in the margin, and *and* are to be delivered in the like order and condition at the port of Rio de Janeiro (the dangers of the sea only excepted) unto Messrs. Greenway & Co., or to their assigns, he or they paying freight for the said boxes fifteen cents per cubic foot, with five p. c. primage and average accustomed.

In witness whereof, the master or purser of the said vessel hath affirmed to 4 bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.

20 Dated in N. Y. the 30th day of November, 1852.

R. M. HALSTED.

Freight, 2,613 feet, 15 cts.........	$391 95
Primage..................................	19 59
	419 54

Endorsed: 10. 522. U. S. Dist. Court. John Greenway et al. ag'st The Barque Griffin, her tackle, &c., and owners. Libel.

WEEKS & DE FORREST,
Proct's Lib'lts, 58 *Wall st.*

Filed May 6, 1853.

Let the notice in this case be published until the 24th inst.
21 May 14, 1853.

SAM'L R. BETTS.

To the Honorable Samuel R. Betts, judge of the District Court of the United States for the southern district of New York:

Amendments to the libel of John Greenway and George C. Dickson against the barque Griffin, her tackle, &c., and Oliver S. Halsted and others, in a cause of contract, civil and maritime, allowed by order of said court, dated the 23d day of July, 1853.

First amendment strikes out the names "James Smith and John Kennedy," in the caption of the libel, and also in the
22 prayers thereof, between folios 11 and 12, so that the said

James Smith and John Kennedy shall not be named as defendants therein.

JOHN GREENWAY.

Sworn to before me this 25th day of July, 1853.

CHAS. ELLIOTT SCOVILLE,
U. S. Com'r.

WEEKS & DE FORREST,
Pro. for Lib'lts.

Endorsed: 10. 522. U. S. Dist. Court, south. dist. N. Y. John Greenway et al. ag'st the Barque Griffin, her tackle, apparel, &c., and Oliver S. Halsted and o'rs. Amendments to libel.

WEEKS & DE FORREST,
Pro. Libellants, 58 *Wall st.*, *N. Y.*

Filed July 26, 1853.

United States Dist. Court for the southern dist. of New York.

JOHN GREENWAY and GEORGE C. DICKSON, Libellants,
v.
23 THE BARK GRIFFIN, HER TACKLE, &C., OLIVER S. HALSTED, Jr., Samuel Meeker, John Chadwick, and John Howland, Respondents.

To the Honorable Samuel R. Betts, Judge of the District Court of the United States for the southern district of New York:

And now Oliver S. Halsted, jr., Samuel Meeker, and John Chadwick, of the city of Newark, county of Essex, and State of New Jersey, and John Howland, of the city of New York, intervening
for their interest in the barque Griffin, appear before this
24 honorable court, and for answer to the libel and complaint in
this action of John Greenway and George C. Dickson, of Rio de Janeiro, against the said barque and against all persons lawfully intervening further interest therein, allege and articulately propound as follows:

First. That at the time of filing the libel in this cause, the respondents were the owners of the said barque Griffin, and also were the owners of the same in the month of November, A. D.
1852; and that she was then up for a voyage from New
25 York to Rio de Janeiro; and that Messrs. Leland & Davison
did, at or about that time, ship on board of said barque, whereof R. M. Halsted was then master, one hundred and thirty-two boxes chairs and furniture, to be delivered at the ship's tackles at the port of Rio de Janeiro unto Messrs. Greenway & Co., or to their assigns, as per bill of lading signed by said captain, a duplicate whereof is in the possession of the respondents, to which they pray leave to refer.

Second. That the said bark Griffin, having taken on board a
cargo of divers goods and merchandise for the voyage, proceeded
26 therewith for the port of Rio de Janeiro, and arrived
there some time in the month of February, A. D.
1853, and, as respondents are informed and believe, then and there
delivered to Messrs. Greenway & Co., the consignees, the boxes of
chairs and furniture mentioned and referred to in said bill of lading,
in accordance with the terms and conditions thereof, and made
the freight due thereon, but that neither Messrs. Greenway & Co.,
nor any person in their behalf, ever paid or proposed or offered to
pay the freight money due thereon, but have wholly neglected
27 and still neglect and refuse so to do.

Third. That said boxes of chairs and furniture were not
only delivered to the libellants in accordance with the terms and
conditions of the bill of lading as aforesaid, but, as respondents are
informed and believe, were also duly received by them, or on their
behalf, and under their direction passed into the custom-house at
Rio, and were duly examined by the owners and the proper government
officers, and the duties thereon paid by the consignees;
the said boxes of chairs and furniture remaining subject to
28 their direction and control, and, as respondents are informed,
still so remaining, they, the said consignees, never having
abandoned the same, and given any notice of their intention so to
do, to the respondents or to any person on their behalf.

Fourth. That the custom-house regulations, and the laws of the
port of Rio de Janeiro, may have required a manifest of the cargo on
board said bark Griffin, but on information and belief they, the respondents,
deny that a failure to mention in such manifest the
29 132 boxes as aforesaid would have subjected them to seizure
and confiscation by the Brazilian government, or that such
seizure or confiscation could or would take place after they were
duly entered at the custom-house, and the duties paid and received
thereon; and they further deny that the master made out a list or
manifest of the cargo of said bark, in which the aforesaid 132 cases
were not mentioned or specified, or that he, the said master,
30 wholly neglected to mention them therein, as stated in said
libel; and they further deny that by reason of the neglect
and omission of the master aforesaid, the said 132 cases were seized
or were confiscated by reason of the said master's default.

Fifth. That the cargo of said bark "Griffin," including the
goods referred to in said libel, was duly discharged, as they, the
respondents, are informed and believe, in accordance with the bills
of lading, cargo book, and freight list then in the hands of the
captain, in conformity with the laws and regulations of the
31 port, and under the inspection and the order of the proper
government officers; that the aforesaid 132 boxes or packages
were duly delivered to the consignees, the libellants, as by

the terms of the bill of lading required, and went into the custom-
house under their direction, they paying the duties thereon; that
they were not subject to seizure or forfeiture by the laws of Brazil,
and if any seizure or forfeiture has taken place, it is in violation of
law; that the neglect, default, mismanagement or connivance
32 of the consignees or their agents, and not through any fault
or omission of the captain or owners of said bark.

Sixth. That after the delivery of the 132 boxes, as aforesaid, to
the libellants at Rio de Janeiro, in good order, at the ship's tackles,
as per bill of lading, they, the consignees, became responsible for
their safety and proper direction; that said boxes or packages, as
the respondents are informed and believe, were not confiscated or
forfeited to the government nor abandoned by the consignees or
owners, no notice of any such confiscation or abandonment
33 ever having been given by the consignees to the captain or
owners of said bark, neither any offer to pay the freight due
thereon, nor any demand of any damage which might or could
arise by reason of any forfeiture, confiscation or abandonment as
aforesaid.

And the respondents deny the right of the libellants to maintain
their suit in this behalf until a confiscation or forfeiture has taken
place by reason of the default or negligence of the captain
34 and owners of the said bark, and a failure on their part
to fulfil their contract of affreightment, as contained in the
bill of lading as aforesaid, or an abandonment of the goods on the
part of the libellants, with due notice thereof to the respondents,
with an offer to pay the freight thereon.

Seventh. That by the delivery of the 132 boxes of chairs and
furniture, as specified in the bill of lading, at the ship's tackles, in
good order, to the consignees at Rio de Janeiro, in accordance with
the contract of affreightment, the vessel did then and there
35 earn the freight by virtue of the bill of lading, so signed
by the captain as aforesaid, and has not, and is not, liable
to be proceeded against, either at Rio de Janeiro or in New York,
by attachment or otherwise.

Eighth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court, in verification whereof, if denied, the respondents crave leave to refer to the depositions and other proofs to be by them exhibited in this cause.

Wherefore these respondents pray that this honorable
36 court would be pleased to pronounce against the libel as

aforesaid and condemn the libellants in costs, and otherwise right and justice administer in the premises.

O. S. HALSTED,
For himself, and as attorney in fact of
Samuel Meeker and John Chadwick.

JOHN HOWLAND.

NELSON CHASE,
Proctor for Respondents, Oliver S. Halsted, jr.,
Samuel Meeker and John Chadwick.

JOHN HOWLAND,
Resp'd't in proper person.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Oliver S. Halsted, jr., one of the respondents in the foregoing answer named, being duly sworn, says that he acted as the
37 attorney in fact of Samuel Meeker and John Chadwick, two of the other respondents in said answer named, and also in his own right, in conducting the business of the bark "Griffin," in sending said vessel on her voyage from New York to Rio de Janeiro, mentioned in the libel in this action, and as such attorney in fact, and in his own right, had and took, and has had the whole of the management of the business of said vessel for such
38 voyage; and this deponent says that the foregoing answer, subscribed by him in his own behalf and as attorney in fact for the said Samuel Meeker and John Chadwick, is true in substance and matter of fact.

O. S. HALSTEAD, JR.

Sworn before me this 9th day of Aug., 1853.

JOSEPH BRIDGHAM,
U. S. Com'r.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

John Howland, one of the respondents in the foregoing answer named, being duly sworn, says that the said answer subscribed by him is true in substance and matter of fact.

JOHN HOWLAND.

Sworn before me this 10th day of Aug., 1853.

JOSEPH BRIDGHAM,
U. S. Com'r.

Endorsed: 10. 522. U. S. Dist. Court southern dist of New
39 York. John Greenway and George C. Dickson agst. The Barque Griffin, her tackle, &c., and O. S. Halsted, jr., and al. Answer of respondents; Nelson Chase, p'r for respondents.

To the Honorable Samuel R. Betts, Judge of the District Court of the United States for the southern district of New York:

The replication of John Greenway and George C. Dickson, libellants, to the answer of Oliver S. Halsted, jr., Samuel Meeker, John Chadwick, and John Howland, respondents, alleges that they, the said libellants, will aver, maintain, and prove their libel to be true, certain, and sufficient, and that the said answer of the
40 said respondents is uncertain, untrue, and insufficient, and they humbly pray, as in and by their said libel they have already prayed.

WEEKS & DE FORREST,
Proctors for Libel'nts.

Endorsed: 10. 522. U. S. Dist. Court south. dist. N. Y. John Greenway et al. vs. The Barque Griffin and al. Replication. Weeks & De Forest, pro. for libl'nts, 58 Wall st., N. Y. Filed Aug. 11, 1853.

At a stated term of the district court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Tuesday, the thirtieth day of August, in the year of our Lord one thousand eight hundred
41 and fifty-three.

Present, the Honorable Charles A. Ingersoll, district judge.

John Greenway and George C. Dickson
vs.
The Bark Griffon, her tackle, &c.

On reading and filing the libellants' notice of motion that a commission issue in this cause for the examination of witnesses in their behalf, Mr. De Forrest appearing for the libellants, and Mr. Halsted for the respondents, it is ordered that a commission
42 issue accordingly herein, directed to John Westwood, esq., consul of Great Britain at Rio de Janeiro, and to the consul of the United States resident or acting at the same place, authorizing them and each of them to take the testimony of Juan J. Tuxeria Magelhorz, of said place, accountant; Feirez, of the same place, collector; Azeveda, of the same place, counsellor at law; Abranches, of the same place, merchant; and also the boarding officers in or connected with the custom-house at said place in February or March, 1853; and also the secretaries and clerks of said collector or custom-house, or such of them as shall be produced for the purpose by the libellants, as witnesses in behalf of the
43 libellants in this action, upon interrogatories to be annexed to said commission; and that said commission, when executed, be returned to the clerk of this court.

And it is further ordered, that the respondents have leave to join in said commission.

(Signed) CH'S J. INGERSOLL,
District Judge.

The President of the United States of America to John Westwood, esq., Consul of Great Britain in Rio de Janeiro, and Robert G. Scott, esq., United States Consul at the same place, greeting:

Know ye, that we, in confidence of your prudence and
44 fidelity, have appointed you commissioners, and by these
presents do give you and each of you full power and authority, diligently to examine upon their corporal oaths, or affirmations, before you to be taken, and upon the interrogatories hereunto annexed, Juan J. J. Teixeria Maghales, of Rio de Janeiro, accountant; Fevris, of the same place, collector; Joaquin Jon. De Azeveda, of the same place, counsellor at law; and M. O. Abranches, of the same place, merchant; and also the boarding officers in and connected with the custom-house there in February or March, 1853; and also the secretaries of said collector or custom-house, or such of them as shall be produced by the libellants hereafter mentioned, as witnesses on the part of the libellants in a certain cause now pending undetermined in the district court of the United States of America for the southern district of New
York, wherein John Greenway and George C. Dickson are
45 libellants against the bark Griffon, her tackle, &c., Oliver
J. Halsted, jr., and others, respondents.

And we do further empower you, and each of you, severally, to examine on the same behalf, and in like manner, any other person or persons who may be produced as witnesses before you; and we do hereby require you, and each of you, severally, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to George W. Morton, clerk of the district court of the United States for the southern district of New York, at the city of New York, as soon as may be convenient after the execution of this commission; and that
you return the same when executed, as above directed, with
46 the title of the cause endorsed on the envelope of the com-
mission, by the usual mode of transmitting letters from Rio de Janeiro to the city of New York.

Witness the Honorable Samuel R. Betts, judge of the district court of the United States for the southern district of New York, at the city of New York, this 20th day of October, in the year of our

Lord one thousand eight hundred and fifty-three, and of our independence the seventy-eighth.

GEO. W. MORTON,
Clerk of the District Court of the United States
for the Southern District of New York.

WEEKS & DE FOREST,
Prs. for Libellants.
47 NELSON CHASE,
Proctor for Respondents.

Interrogatories to be administered to Jean J. J. Teixeira Magelhaes, of Rio de Janeiro, accountant; Ferras, of the same place, collector; Joaquin José de Azevedo, of same place, counsellor of law; M. O. Abranches, of the same place, merchant; and also the boarding officers of the custom-house at said place, and the secretaries or clerks of the said collector or custom-house, witnesses to be produced, sworn and examined in behalf of the libellants in a certain cause of admiralty and maritime jurisdiction now pending in the district court of the United States for the southern district of New York, wherein John Greenway and 48 George C. Dickson are libellants against the barque Griffin, her tackle, apparel, &c., and against Oliver S. Halstead, jr., Samuel Meeker, John Chadwick and John Howland, respondents, on the behalf of the libellants, under and pursuant to the commission hereunto annexed.

First interrogatory. What is your name, age, place of residence, and business or profession?

Second interrogatory. Do you know John Greenway, George C. Dickson, now or late of Rio de Janeiro, and either or which of them? Had they any business firm; if yea, what was it, and were 49 they engaged in any, and what business, in March or February, 1853, and where were they so engaged?

Third. Did you see the barque Griffon on her arrival at Rio de Janeiro, in the spring of the year 1853? if yea, what was her master's name?

Fourth. Was said barque boarded on her arrival at Rio de Janeiro by any officer or officers of the customs of that port; if yea, by whom; how soon after her arrival?

Fifth. If you say said barque was boarded by any such officer, declare particularly what thereupon transpired on board said barque, if anything, between the master or other person in charge of said barque, and such officer or officers? Were any 50 questions asked or demands made by such officer; if yea, what were they? Were any replies made by said master or any officer of said barque; if yea, what were they? Were any papers delivered by said master or other officer of said barque; if yea, what were they—to whom were they delivered? Declare fully and particularly all that transpired between said master and such officer or officers of the customs.

Sixth. Have you ever seen any manifest of the cargo of said barque Griffon on her voyage from New York, which expired at Rio de Janeiro in the spring of the year 1853; if yea, where
51 did you see it for the first time? In whose hands was it? Was it delivered to any person or persons; if yea, by whom, and to whom? Where is such manifest now? In whose custody, and in what office, if any?

Seventh. If you or any of you have stated that the master of said barque delivered a manifest of said barque, declare whether such manifest contained any mention or entry of 132 boxes consigned to Mess. Greenway & Co., at Rio de Janeiro?

Eighth. Do you know whether or not 132 boxes consigned to Mess. Greenway & Co. were part of the cargo of said barque Griffon; if yea, how were said boxes marked and addressed; what did they contain? declare particularly.

Tenth. What was done with said 132 boxes; were they
52 discharged out of said barque? To what place were they taken therefrom? Where was the barque lying when said boxes were taken out of her? In whose possession were they placed? How long were they kept in such possession?

Eleventh. If you have stated that said boxes, or any of them, were taken to the custom-house at Rio de Janeiro, state by whose orders or directions were they so taken, and for what purpose. How long were they kept in the custom-house, and for what purpose?

Twelfth. Were said boxes or any of them delivered out of said custom-house to any person or persons; if so, to whom; when and for what purpose? Have said boxes or any of them been
53 delivered to Greenway & Co., or any one on their behalf? If not delivered, why have they not been delivered?

Thirteenth. Have said boxes or any of them been sold at Rio de Janeiro; if yea, by whom have they been sold, and by whose orders, and for what purpose?

Fourteenth. If you have stated that said boxes or any of them were seized by the collector or other officer of the customs at Rio de Janeiro, detail particularly all you know about the occasion, causes or alleged causes of such seizure, with all particularity.

Fifteenth. Do you know whether Greenway & Co. purchased the contents of said 132 boxes on account of themselves or of
54 some other person or persons; and if so, who were such persons; what were the terms on which they were so purchased; did such persons accept or receive them at Rio de Janeiro; if they did not, why not? declare fully and particularly.

Sixteenth. State, if you can, the value of the contents of said 132 boxes, or any of them, at Rio de Janeiro.

Seventeenth. This action is brought against the barque Griffon and her owners, by the consignees of said 132 boxes, to recover the value thereof, on the alleged ground that said boxes and their contents were seized at Rio de Janeiro by the officers of the customs, by reason of the omission of the master of said barque to specify said
boxes on the vessel's manifest. Do you know anything
55 which will benefit the libellants in this action? If you do,
state the same with as much particularity as if you were
fully interrogated as to the same.

Cross-interrogatories to be administered on behalf of the respondents to the persons named and referred to in the commission and interrogatories, as witnesses to be produced, sworn and examined on behalf of the libellants in a certain cause of admiralty and maritime jurisdiction now pending in the district court of the United States for the southern district of New York, wherein John Greenway and George C. Dickson are libellants,
56 against the barque Griffon, her tackle, apparel, &c., and
against Oliver Halstead, Samuel Meeker, John Chadwick, and John Howland, respondents.

First cross-interrogatory. Did not Messrs. Greenway & Co. become the consignees of the barque Griffon, on her arrival at Rio de Janeiro, in the winter of 1853, and undertake to attend to her affairs?

Second cross-interrogatory. Under whose direction as consignees was the barque Griffon discharged; when, where, and how long after her arrival?

Third. Did not Messrs. Greenway & Co. pay or become responsible for the imposts or duties payable on the cargo of the barque Griffon?

Fourth. How soon after the arrival of the barque, by and to
whom, were the duties imposed at the custom-house paid;
57 were all the duties paid?

Fifth. Was the entire cargo fully and fairly discharged under the inspection and by permission of the proper officers?

Sixth. Did any infringement of the laws or regulations of the port take place? if yea, state what they were, by whom committed, when and where.

Seventh. Were any fines imposed on the vessel or captain for any infringement of law or port regulations; if yea, for what, by whom, to what amount? Has any such fine been paid; by whom and to what amount?

Eighth. After the cargo of the barque was discharged, was not the usual notice duly given that nothing remained on board the vessel?

58 Ninth. Was any portion of the cargo or any packages or
goods found on board after the vessel was discharged; if yea,

what and by whom found; were they seized on board; if so, by whom, for whose benefit; what was the value thereof; who paid the duties thereon; was any fine imposed therefor; on whom; to what amount; what became of such goods so seized on board?

Tenth. What duties or imposts were paid on the 132 packages referred to in the interrogatories in chief; by whom were they paid; how was the amount determined; what valuation was put on the packages at the custom-house; who valued them; did the consignees assent to the valuation, and pay the fees or duties in accordance therewith?

59 Eleventh. If any error existed in the manifest, when and by whom was it first discovered; where were the goods when the discovery was made; had not the duties then been paid?

Twelfth. When were the consignees first advised that an error existed in the manifest? when was the captain notified; at the time the captain was notified was not the barque chartered and loaded for a return voyage, and had not the consignees, Mess. Greenway & Co., made up their accounts, and taken steps to clear or absolutely clear the vessel?

Thirteenth. Did not the consignees and the captain have a dispute in reference to the accounts of the barque, and was any trouble made about the 132 packages until after such dispute?

60 Fourteenth. Who compose the firm of Greenway & Co.; what countrymen are they, English, Spanish, French, or American?

U. S. District Court, southern district of New York.

JOHN GREENWAY et al.
vs.
THE BARQUE GRIFFIN AND OWNERS.

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss.

Charles W. Storer, of the city of New York, being duly sworn, saith, that on the 15th day of November, 1854, he received the commission herewith delivered and addressed to me, George W. Morton, clerk of the district court of the United States for the southern district of New York, from the hands of John J. C. Westwood, the commissioner herein, whose endorsement is 61 on the back of the said commission, and that the said commission has not been altered or opened since the deponent so received it.

C. W. STORER.

Sworn to before me this 12th day of January, 1855.

GEO. W. MORTON,
U. S. Com'r.

Endorsed: 10. 522. U. S. district court, S. dist. of New York.

John Greenway et als. vs. The Barque Griffin and Owners. Aff't as to delivery of commission. Filed Jan'y 12, 1858.

At a stated term of the district court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Friday, the 12th day of January, 1855; present, the Honorable Chas. J. Ingersoll, district judge. 62

JOHN GREENWAY et als.
vs.
THE BARK GRIFFON, &c.

The clerk having this day received the depositions in this cause, ordered that they be opened and filed.

U. S. District Court, south. dist. of N. Y.

JOHN GREENWAY et al.
vs.
THE BARQUE GRIFFIN AND O'RS.

SIRS: You will please take notice that the commission in this cause issued to the American and British consuls at Rio de Janeiro has returned; that the said commission, with the depositions thereto annexed, has been filed in the office of the clerk of this court, and that it has been opened.

Yours, &c.,
WEEKS & DE FORREST,
Libl'nts' Proctors.

U. S. Dist. Court.

JOHN GREENWAY et al.
vs.
63 THE BARK GRIFFIN AND OWNERS.

No. of filing commission. Served copy in Howland & Chase's office, Jan'y 13, '55.

G. B. P.

It was *cancelled* that the foregoing notice of filing the depositions taken at Rio de Janeiro was served on the 13th Jan'y, 1855.

NELSON CHASE,
Proctor for Resp'dts.

Deposition of witnesses produced, sworn, and examined on the twentieth day of June, one thousand eight hundred and fifty-four, before me, John Julius Collinger Westwood, her Britannic Majesty's consul at Rio de Janeiro, under and by virtue of a commission issued out of the district court of the United States 64 for the southern district of New York, in a certain cause therein depending and at issue between John Greenway and other libellants against the bark "Griffin," her tackle, &c., and against Oliver S. Halstead and other respondents. The second commissioner named in aforesaid commission not present, nor notified, as he is absent from this city.

Joao Ignacio Teixara de Magalhaer, junior, of this city of Rio de Janeiro, a trader, aged twenty-nine years, being duly
65 and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the libellants, doth depose and say as follows:

To the first interrogatory he saith as before described.

To the second interrogatory he saith, that he knew both John Greenway and George C. Dickson, late of this city; that they were established in business under the firm of Greenway & Com-
66 pany, and in March and February, 1853, they carried on business as commission agents in this city.

To the third interrogatory he saith, that he did see the bark "Griffin" on her arrival in this port in the spring of the year 1853, but does not at present remember her master's name.

To the fourth interrogatory he saith, that he knows the bark Griffin was boarded on her arrival, as by the laws of Brazil all vessels must be visited by the custom-house authorities be-
67 fore they are permitted to come up the harbor, and because he, witness, was the shipping clerk in Greenway & Co.'s establishment, and accompanied the masters when he made the vessel's entry in the custom-house, which entry could only take place after the vessel had been so boarded.

To the fifth interrogatory he saith, that not having been present, cannot answer, but knows that, according to the port regulations, the boarding officers must have asked the master different questions, such as where the vessel is from, what cargo she
68 brought, demanded the manifest, and required the master to say whether he had any declarations to add to the same in reference to the cargo.

To the sixth interrogatory he saith, that he saw the manifest of the cargo of the bark "Griffin" for the first time when giving entry at the custom-house, when it was in possession of the visiting officers who boarded the Griffin, from whom the witness received it, for the purpose of completing the necessary formalities; it afterwards remained in the custody of the custom-house officers, and ought now to be in the treasury archives.

69 To the seventh interrogatory he saith, that he has seen the "Griffin's" manifest; and having examined the same, declares that no mention or entry was made of one hundred and thirty-two boxes consigned to Greenway & Co.

To the eighth interrogatory he saith, that he knows that one hundred and thirty-two boxes, consigned to Greenway & Co., formed part of the Griffin's cargo, as he, on different occasions in his capacity of clerk of the house, saw and examined the bill of lading.

To the tenth and eleventh interrogatories he saith, that
70 the bark "Griffin" being alongside of the custom-house
wharf, for the purpose of discharging her cargo, the said
one hundred and thirty-two boxes were then actually discharged and
deposited into the custom-house, wherein they remained until dis-
posed of by public auction, in consequence of having *being* seized
and confiscated as goods not declared in the ship's manifest.

To the twelfth interrogatory he saith, that the said boxes were
kept in the custody of the custom-house until delivered to
71 the parties who purchased them; they were not delivered
to Greenway & Co., or to any one in their behalf, and such
delivery could not take place in consequence of the before men-
tioned seizure.

To the thirteenth interrogatory he saith *he saith*, as already declared, that the contents of the said boxes were sold by order of the custom-house, in consequence of their seizure.

To the fourteenth interrogatory he saith, that the said boxes
were seized by the custom-house, as already stated, because they
were not manifested, which seizure was in conformity to the
72 then existing custom-house laws, bearing date the 22 June,
1836.

To the fifteenth interrogatory he saith, that the said one hundred and thirty-two boxes were purchased in the United States, on account of Greenway & Co., to fulfil a commission given to the house by an establishment in the city, carrying on business under the firm of Abranches & Co., who could not afterwards receive the goods from Greenway & Co., or fulfil their engagements with reference thereto, on account of said seizure.

To the sixteenth interrogatory he saith, that he cannot
73 declare what was the exact marked value of the contents of
the said one hundred and thirty-two boxes, but from his re-
collection of their invoice cost, the value was between five and six
thousand dollars.

To the seventeenth interrogatory he saith, that he knoweth nothing in addition to what he has already declared.

Cross-interrogatories.

To the first cross-interrogatory he saith, that Greenway & Co.
were the consignees of the bark Griffin, and did undertake
74 to attend to the ship's business, as far as the laws of the
country permitted.

To the second cross-interrogatory he saith, that two or three days after her arrival the bark Griffin commenced discharging at the custom-house wharf, under the usual and special control of the custom-house, and without any interference on the part of the consignees.

To the third cross-interrogatory he saith, that the duties and
imposts on all imports are paid by the consignees of the
75 goods themselves, and not by the consignees of vessels.

To the fourth cross-interrogatory he saith, that he knoweth not.

To the fifth cross-interrogatory he saith, that to the best of his belief the entire cargo was fully and fairly discharged under the inspection and by permission of the proper officers.

To the sixth cross-interrogatory he saith, that the omission on the part of the capt. of the Griffin, in not declaring in the mani-
fest the one hundred and thirty-two boxes, was an infringe-
76 ment of the 155 article of the custom-house regulations,
which led to the seizure of the goods in question, which infringement occurred when the manifest was drawn up at the port of starting.

To the seventh cross-interrogatory he saith, that the master of the Griffin was fined by the custom-house for the omission in the manifest; does not know the amount, but the same must have been
in accordance with the above cited article of the custom-
77 house regulations; and that said fine was not actually paid,
as the master obtained its remittance from the government.

To the eighth cross-interrogatory he saith, that the usual notice was given to the custom-house of the final discharge of the Griffin by the master.

To the ninth cross-interrogatory he saith, that he knoweth not.

To the tenth cross-interrogatory he saith, that he knoweth not.

To the eleventh cross-interrogatory he saith, that the error in
the manifest was discovered by the officers of the custom-
78 house where the goods then existed; he cannot say whether
any duties had then been paid upon them.

To the twelfth cross-interrogatory he saith, that when the error was discovered it was notified to the master, who accordingly made the same known to Greenway & Co., who used their best efforts to release the goods, but owing to the direct violation of the law, they were not able to succeed; to the best of his recollection, the Griffin was not loading her outward cargo, or chartered at the time; therefore, Greenway & Co. could not have cleared the vessel.

79 To the thirteenth cross-interrogatory he saith, that he knoweth not.

To the fourteenth cross-interrogatory he saith, that the only member of the firm of Greenway & Co. that he knew was John Greenway, and that he never knew who were the other partners, and so far as regards their nationality, he knows that said John Greenway is an Englishman.

JOAD IG'CIO TEXX'RA DE MAGALHAES, Jr.

Examination taken, reduced to writing, and by the witness subscribed and sworn to the 20th day of June, 1854.

JNO. J. C. WESTWOOD,
Commissioner.

Deposition of the witness produced, sworn and examined on the
twenty-first day of June, one thousand eight hundred and
80 fifty-four, before me, John Julius Collings Westwood, her
Britannic Majesty's consul at Rio de Janeiro, under and by
virtue of a commission issued out of the district court of the United
States for the southern district of New York, in a certain cause
therein depending and at issue between John Greenway and other
libellants against the bark "Griffin," her tackle, &c., and against
Oliver S. Halsted, and other respondents. The second commissioner named in aforesaid commission not present nor notified, as he
is absent from this city.

81 Francisco Leao Cohn, of Rio de Janeiro, forty years of
age, the deputy Guarda Mor of the custom-house of this
place, being duly and publicly sworn pursuant to the directions
hereto annexed, and examined on the part of the libellants, doth
depose and say as follows:

To the first interrogatory he saith as before described.

To the second interrogatory he saith, that he knew John Greenway, late of this city; is aware that he was engaged in busi-
82 ness under a firm, but does not recollect the title or style of
that firm, and that said firm traded in this city in the
months of February and March, 1853.

To the third interrogatory he saith, that he did see the bark "Griffin" on her arrival in their port in the year 1853, and that her master's name was Robert Morris Halstead.

To the fourth interrogatory he saith, that the bark "Griffin" was boarded by him in his official capacity immediately after her arrival in this port.

To the fifth interrogatory he saith, that on boarding
83 the "Griffin" he asked the master for the manifest and list
of passengers, and required him to state whether he had
any additional statement or declaration to make to said manifest, witness intimating to the said master that that was the only time allowed to him by the laws of the country for making such declarations; upon which the master handed over the manifest in duplicate, one sealed up by the Brazilian consul at the port of sail-
ing, and directed to the inspector of the custom-house at
84 this port, and the other open, declaring that he had no ad-
dition to make, or declaration to record. Witness further
states that on no other occasion did the said master add any declaration to the said manifest handed over to the witness when the vessel was boarded, notwithstanding the written declaration made

by him, the master, before the Brazilian consul at New York, and
inserted in the manifest, to the effect that he would immediately
on arrival at this port declare any error or omission that
85 might be discovered in the manifest in question. Witness
further adds in proof of this, his evidence, a document signed
by himself.

To the sixth interrogatory he saith, that, as before stated, the Griffin's manifest was given to him by the master, and by him, witness, delivered to the custom-house, and that said manifest must either be still in that department or in the archives of the treasury.

To the seventh interrogatory he saith, that he does not know
from personal examination of the manifest whether the one
86 hundred and thirty-two boxes consigned to Greenway &
Co. were entered in that document or not; but he is aware
from subsequent proceedings in the custom-house that the same
must have been omitted.

To the eighth interrogatory he saith, that he is aware that the one hundred and thirty-two boxes consigned to Greenway & Co. formed part of the Griffin's cargo, and that they contained furniture, but does not recollect the marks or numbers.

To the tenth and eleventh interrogatories he saith, that the
said one hundred and thirty-two boxes were discharged
87 from the bark "Griffin," and were deposited in the cus-
tom-house. Witness does not recollect where the Griffin
was lying at the time; the boxes in question remaining in the
custody of the custom-house until sold by public auction after their
seizure, which seizure took place in consequence of the violation of
the laws of the country by the master's omission to enter the same
in the ship's manifest.

To the twelfth interrogatory he saith, that the boxes in ques-
tion were delivered to the parties who purchased them and
88 the proceeds forfeited to the custom-house.

To the thirteenth interrogatory he saith, that as already stated, the boxes in question were sold by order of the inspector of the custom-house in execution of the fiscal laws.

To the fourteenth interrogatory he saith, that the one hundred
and thirty-two boxes in question were seized and confiscated in
consequence of the violation of the 155th article of the custom-
house regulations, bearing date the 22d June, 1836, which pre-
scribes the obligations on the part of the master to manifest
89 the whole of his cargo, inflicting the penalty of seizure and
confiscation of all goods not so manifested.

To the fifteenth, sixteenth, and seventeenth interrogatories he saith, that he knoweth not.

Cross-interrogatories.

To the first cross-interrogatory he saith, that he knoweth not.

To the second cross-interrogatory he saith, that the bark "Griffin" was discharged in the customary manner, under the orders and guidance of the custom-house officers.

90 To the third cross-interrogatory he saith, that the custom-house duties are paid by the consignees of the goods themselves, and not by the vessel's consignee.

To the fourth cross-interrogatory he saith, that he knoweth not.

To the fifth cross-interrogatory he saith, that to the best of his belief the entire cargo was fully and fairly discharged under the inspection and by permission of the proper officers.

To the sixth cross-interrogatory he saith, that he refers to his answer given to the fourteenth interrogatory.

91 To the seventh cross-interrogatory he saith, that fines were imposed on the master for the infringement before alluded to, but were subsequently remitted by the government, although the master never succeeded in obtaining the release of the goods.

To the eighth cross-interrogatory he saith, that he knows that such is the law and the custom, and has no doubt that the law was duly complied with in this instance.

To the ninth and tenth cross-interrogatories he saith,
92 that he knoweth not.

To the eleventh cross-interrogatory he saith, that the error in the manifest was discovered by the custom-house officers in the fulfilment of their duty.

To the twelfth cross-interrogatory he saith, that the notification in such cases not belonging to witness's section of the custom-house, he cannot say.

To the thirteenth and fourteenth cross-interrogatories he saith, that he knoweth not.

FRAN'CO LEAO COHN.

Examination taken, reduced to writing, and by the wit-
93 ness subscribed and sworn to the 21st day of June, 1854.

JNO. J. C. WESTWOOD,
Commissioner.

Depositions of witnesses produced, sworn, and examined on the twenty-third day of June, one thousand eight hundred and fifty-four, before me, John Julius Collings Westwood, Britannic Majesty's consul at Rio de Janeiro, under and by virtue of a commission issued out of the district court of the United States for the southern district of New York, in a certain cause therein depending and at issue between John Greenway and other libel-
94 lants, against the bark "Griffin," her tackle, &c., and against Oliver S. Halstead and other respondents.

The second commissioner named in aforesaid commission not present nor notified, as he is absent from this city.

Manuel Olegario Abranches, of the city of Rio de Janeiro, a partner in the firm of Manuel Olegario Abranches & Co., traders in this city aforesaid, twenty-four years of age and upwards, 95 being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the libellants, doth depose and say as follows:

To the first interrogatory he saith as before described.

To the second interrogatory he saith, that he knew both John Greenway and George C. Dickson; that they were established in business under the firm of Greenway & Co., and that in March and February, 1853, they were engaged as commission agents in this place.

To the third interrogatory he saith, that he did see the 96 bark "Griffin" on her arrival in this port in the year 1853, but does not recollect her master's name.

To the fourth interrogatory he saith, that as the vessel was admitted to discharge her cargo, she must have been regularly boarded and visited by the custom-house officers in due observation of the law, and for the same reason that formality must have taken place immediately after the vessel's arrival.

To the fifth interrogatory he saith, that not having been present at the time of boarding the "Griffin," he cannot declare 97 particularly what transpired between the custom-house officer and the captain, but that he is aware, from the fact of the vessel having been admitted to come up to the inner harbor and commence her discharge, that the usual and legal questions must have been put to the captain by the visiting officer, such as desiring the master to deliver up his manifest, and declare any omission or alteration respecting the cargo, and that the 98 captain must in due course have given the manifest in duplicate, one sealed by the Brazilian consul at New York, and addressed to the inspector of the custom-house of this city.

To the sixth interrogatory he saith, that he did see the manifest referred to in the custom-house, in the hands of the officer of said department, which document had been delivered to the custom-house visiting officers; witness further states, that said manifest must necessarily be in the archives of the custom-house treasury.

To the seventh interrogatory he saith, that having ex- 99 amined said manifest, he knows that the one hundred and thirty-two boxes referred to were not mentioned in that document.

To the eighth interrogatory he saith, that he knows that the said one hundred and thirty-two boxes did form part of the "Griffin's" cargo, as he, witness, saw them when discharged from the vessel into the custom-house; that said boxes contained furniture, and were addressed to his house, and each package bearing

100 the mark of the firm, M. O. Abranches & Co., and the counter
mark of G. & Co., and were also numbered.

To the tenth and eleventh interrogatories he saith, that the bark Griffin being alongside one of the custom-house wharves, the said one hundred and thirty-two boxes were discharged and deposited in the custom-house, where they remained until they were sold by public auction, in consequence of their having been seized and confiscated by the custom-house authorities as merchandise not declared in the ship's manifest.

101 To the twelfth interrogatory he saith, that the one hundred
and thirty-two boxes in question were kept in the custody of the custom-house until delivered to the purchasers. They were not delivered to Greenway & Co., or to any person on their behalf, as no such delivery could take place in consequence of the before stated seizure, in virtue of which seizure they were sold in public auction, and the proceeds forfeited according to law.

To the thirteenth interrogatory he saith, that the contents
102 of said boxes, as before stated, were sold by order of the custom-house
in consequence of their seizure.

To the fourteenth interrogatory he saith, that the 132 boxes in question were, as already stated, seized by the custom-house, because they were not manifested, which seizure was in conformity to the then existing custom-house laws of the 22d June, 1836, violated by the captain in his omission to enter the goods in the Griffin's manifest; and further, that his firm were the purchasers of said merchandise.

103 To the fifteenth interrogatory he saith, that the contents
of the said one hundred and thirty-two boxes were purchased by Greenway & Co., at New York, for account of witness, Commercial House, who bound themselves to pay for the same at their invoice cost in New York, with commission*ers*, freight, and other usual charges, on the due delivery of the merchandise in this city, which delivery was never effected in consequence of the seizure before alluded to, and therefore witness's firm made no pay-
104 ment on account of such goods.

To the sixteenth interrogatory he saith, that the value in this market of the contents of the said one hundred and thirty-two cases were about six thousand dollars, which market value has no reference to the estimated value given in for the payment of duties, and never serves as a basis for the actual value of an article in the market.

To the seventeenth interrogatory he saith, that he has only to
add on behalf of the libellants, that the violation of the
105 laws of the country, which led to the seizure of the
one hundred and thirty-two boxes before referred to, was committed wholly and solely by the "master of the Griffin," and that said master, under such conviction, used every effort to obtain

the release of the goods, without avail, although he did succeed in getting the fine which was imposed on the vessel remitted, as per document annexed.

Cross-interrogatories.

To the first cross-interrogatory he saith, that he knoweth
106 not.

To the second cross-interrogatory he saith, that he knoweth not, but that he is aware, that by the laws of the port all vessels are discharged under the supervision of the custom-house.

To the third cross-interrogatory he saith, that the duties on all merchandise are paid by the consignees of the goods without reference to the vessel's consignee.

To the fourth cross-interrogatory he saith, that a few days after
the discharge of the 132 boxes in question, his firm com-
107 menced the despatch through the custom-house of the same,
and actually paid a portion of the duties thereon, under
the impression that no obstacle was in the way of the delivery of the goods; but on their being seized the despatch of the goods and payment of further duties was immediately stopped, the duties which had been paid being afterwards returned.

To the fifth cross-interrogatory he saith, that the cargo was dis-
charged under the inspection of the proper officer, but
108 that said fact did not release the vessel from responsibility
for any violation or infringement of the fiscal regulations.

To the sixth cross-interrogatory he saith, that infringement and violation of the fiscal laws did take place, as already stated.

To the seventh cross-interrogatory he saith, that he knows that a fine was imposed on the vessel, and afterwards remitted by the imperial government; and for this reason, he, witness, believes that it was never actually paid.

109 To the eighth and ninth cross-interrogatories he saith, that he knoweth not.

To the tenth cross-interrogatory he saith, that this firm, as before stated, commenced despatching and paying duties of said one hundred and thirty-two boxes, which was done in a valuation given in solely by said firm, without the concurrence of any other parties, and, of course, said valuation being made as low as possible, in order to reduce the amount of duties to be paid on the goods.

To the eleventh cross-interrogatory he saith, that the error
110 was discovered by the custom-house officers when the des-
patch of the goods were in progress, and consequently while
the goods were still in the custom-house, a part of the duties, as before stated, having then been paid; but, notwithstanding these circumstances, the fiscal regulations still held the vessel responsible for the omissions and errors of the manifest.

To the twelfth cross-interrogatory he saith, that when the error, as before mentioned, was discovered, he, witness, immediately 111 gave notice of the occurrence to the manager of the firm of Greenway & Co., declaring to him at that time, that as the seizure and confiscation of the goods prevented their delivery to witness's firm, they, the firm of Manoel Olegario Abranches & Co. no longer held themselves responsible for the payment of the goods, according to agreement. With reference to the remaining of the interrogatory, witness saith he knoweth not.

To the thirteenth cross-interrogatory he saith, that he knoweth not.

To the fourteenth cross-interrogatory he saith, that he knew John Greenway and George C. Dickson, but cannot say 112 what were their relative positions in the firm, nor what countrymen they are.

MANOEL OLEGARIO ABRANCHES.

Examination taken, reduced to writing, and by the witness subscribed and sworn to the 23d day of June, 185 , before

JNO. J. C. WESTWOOD,
Com'r.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro.

I, the undersigned, consul (acting) of the United States, hereby certify the above signature to be of the true and proper handwriting of Pedro José de Castro, notary public ad interim of this city, whose deeds are accredited both in and out of judicature.

Given under my hand and seal of office, on this 20 day
113 of June, A. D. 1854.
[L. S.] ROBERT G. SCOTT, JR.

FRANCO. LEAO COHEN.

At the execution of a commissioner for the examination of witnesses between John Greenway and other libellants against the bark Griffin, defendants, this paper writing was produced and sworn to Francisco Leon Cohen, and by him deposed unto, at the time of his examination, before me.

JNO. J. C. WESTWOOD,
Commissioner.

Fran'co Leon Cohn, most illustrious surveyor of the custom house:

Drew so as to make it certain, 24 February, 1854.

114 Samp. Vien.

John Greenway says. that for objects of his own interest, and for the purpose of showing it wherever it may be of use to him, wishes to have a certificate of the tenor of all additional declarations which Robert Morris Halstead may make to the manifest of the American bark Griffin, of which he was master, and this in reference to the voyage which he made to this port at the beginning of last year.

And this to your honor, requesting you to deliver said
115 certificate or a declaration that no additions have been
made to the said manifest; and they will ever pray, &c.

Rio de Janeiro, 24 February, 1854.

By the attorney,

RICARDO AM'O CU'O.

Certificate.

I, Fillipe Viensa de Costa, first clerk of the custom-house of this capital, do hereby certify that to the original manifest of the American bark Griffin *Griffin*, entered at this port in January, 1853, from New York, there is no declaration whatever in relation to any
excess or default of packages. I do likewise certify that
116 annexed to the said manifest, under the seal of the consulate
of the empire at that port, is a declaration made before the
consul, according to the circular of the Treasury Department, the fifth of August, 1842, which declaration is signed by the captain of the said bark.

In testimony whereof, and in order that he may make use of it when necessary, I have given this, signed in my own handwriting, at the custom-house of the capital, 27 February, 1854.

FILIPPI VAIRA DA COSTA.

Cert. of U. S. Act'g Consul and J. J. C. Westwood.

Sir: John Greenway says that he is a resident of the United
States of America, duly represented by his attorney, and for
117 certain objects in his interest and justice desires to obtain in
the form of a certificate the tenor of the two petitions, and
the respective decisions of them which were addressed to your Imperial Majesty in March and July, 1853, by Robert Morris Halsted, master of the American bark "Griffin," which petitions and their decisions were in relation to the seizure of one hundred and thirty-two packages of furniture effected by the custom-house of this
capital, and also to the remission of the corresponding pen-
118 alty, so respectfully request your Imperial Majesty to order
such certificates to be delivered to him. And your petitioner
will ever pray.

Rio de Janeiro, 3d Feb'y, 1854.

As it may be convenient.

RICARDO ANTONIO PEREIRA.

I hereby certify that the petitions and decisions mentioned by the petitioner are of the following tenor:

My Lord: Robert Morris Halsted, commanding the American

bark Griffin, says, through his legitimate attorney, that on the last
voyage of said vessel to this port a seizure on it was made of one
hundred and thirty-two packages of furniture, more or less,
119 on the ground that they were not entered on the manifest;
and although, sir, the petitioner acknowledges that the custom-house
officers have acted according to the instructions of the
department, still there are reasons of equity which render this
seizure contrary to law, and which, in the generous and paternal
heart of your Imperial Majesty, will not fail to make a benevolent
impression.

The petitioner, little accustomed to navigate to Brazilian ports,
endeavored in New York, the place from whence he came,
120 to obtain all possible information of the laws of this country,
and having presented his manifest to the consular agent of
the empire, which he did with the best intention to follow his (the
consul's) instructions, but his misfortune defeated the good intentions
of the petitioner, and caused him to meet in the person of the
Brazilian consul a functionary but recently appointed, and without
the necessary patience to instruct him; so that, making the first
manifest presented to him of no value, he failed to give the
121 petitioner those instructions which the petitioner had the
right to expect from him.

If we take into consideration the benevolent spirit of the regulation
of the 11th of June, 1847, mislaid in this manner, the petitioner
sought for two persons who were represented to him as conversant
with the fiscal regulations of this empire, and intrusted to
their charge the making out of a new manifest, which he presented
to the consul, and which was approved by him, and in consequence
was deposited in the custom-house. However, the result
122 was that it has been found full of mistakes.

From the plain deposition of the petitioner is to be derived
an uncontrovertible evidence of the sincerity of his conduct, and this
sincerity is still more enhanced by the consideration that the
packages which were seized are of such a nature that on account of
their bulk it would be impossible to smuggle them into the port;
and furthermore, that the petitioner was so far from attempting to
commit any fraud that the same packages were delivered into
123 the custom-house by himself, and not by anybody else,
within the period of time prescribed by law, together with
other articles about which there was no difficulty; and finally, that
even in the custom-house so little was thought of the possibility of
smuggling such packages that they were admitted to entry, and
it was not until they were taking them out of the door that it was
discovered that they had not been duly entered in the manifest.

Certainly nobody will doubt that any person having the intention
124 to defraud the revenue will above all things avoid
leaving his goods in the custom-house, and will endeavor by

all possible *ments* to subtract them from the survey or appraisement of the fiscal agents. Therefore it is fully proved that the petitioner had not the slightest intention of doing wrong, and whenever there is no bad intention the criminal legislature cannot perceive any guilt deserving punishment. So great is the respect of
the petitioner for truth that he is induced to confess before
125 your Imperial Majesty, that after the said seizure had taken
place he carefully compared the manifest with the bills of
lading, and he has reason to regret that he has found some discrepancies among the marks, which will be discovered in the custom-house when the goods are cleared, which discrepancies were caused by the circumstances above alluded to in respect to the seizure, and which should be duly waived through consideration of equity, as already stated.

Your Imperial Majesty is without doubt impressed with the
126 necessity of having the revenue laws carried out; but, at the
same time, your Imperial Majesty is always ready to grant
protection to commerce when conducted in good faith, and is not willing that an innocent person should suffer, and that man must certainly be innocent who has not the slightest intention of committing any offence whatever.

Thus, with the greatest respect, and in all submission, the petitioner prays that your Imperial Majesty, through his un-
127 limited munificence, may be pleased to declare and pro-
nounce as illegal the aforementioned seizure, so that it may
have no affect, and to issue such orders to the effect that no fines may be imposed on the vessel of the petitioner on account of the inaccuracies in the marks or of the number of the packages which might be discovered amongst the cargo brought over in the said vessel.

Wherefore he humbly prays that your Imperial Majesty may be
pleased to grant this his solicitation. And he will ever
128 pray, &c.

Rio de Janeiro, March 13, 1853.

For ROBERT MORRIS HALSTED,
NAT'L LANDE & CO.

Decision.

The surveyor of the custom-house of this capital will please to report.

General Direction of the Public Revenue, 19th March, 1853.

SAMPAN VIANNA.

No. 402.

Most Illustrious Sir: With the enclosed process I comply with the directions of your excellency, annexed to the petition of Robert Morris Halsted, commander of the American bark "Griffin."

May God keep your excellency in his safeguard.

Custom-house of Rio de Janerio, 22d March, 1853.

Most illustrious sir, Director General of the Public Revenue, the surveyor.

129 AUGER. MORRIS DE SILVA FERRAZ.

Opinion.

Taking into consideration of the quantity of the packages seized, (one hundred and thirty cases,) and the quality of the goods therein contained, (furniture,) and more particularly the circumstances which occurred before the seizure thereof, (the packages having been previously landed and the duties thereon paid,) there is no plausible reason to ascribe to fraud or bad faith the omissions of
the said packages in the manifest of the vessel in which they
130 were imported; but, on the other hand, the circumstance of
the proof of fraud, or even of its presumption, is not essential, in order to render the seizure a legal one in the present hypothesis. It is expressed in the case before mentioned, in the articles one hundred and fifty-five and one hundred and fifty-six of the general regulations of the 22d of June, 1836, that the simple fact of finding either more or less packages is punishable with the penalties therein de-
creed; and the seizure to which the petition refers having
131 been made and adjudged, in conformity with the provisions
of the said article 155, I am of the opinion that the decision of the custom-house ought to be confirmed—that is to say, the decision of the surveyor of the custom-house, and the petition returned, sending back, in the mean time, to the custom-house the annexed process, with the decision of the tribunal, for all lawful effects.

General Direction of the Public Revenue, the 20th of May, 1853.

SAMPARO VIANNO.

Final Decision.

Be it in conformity with the above opinion.

132 Rio de Janeiro, the 23d day of May, 1853.

Sir Muriz Azambrega,

SAMPARO VIANNA CRUZ.

Sir: Robert Morris Halsted, captain of the American bark Griffin, being represented by his lawful attorneys, begs to say, that having respectfully solicited from your Imperial Majesty to be pleased to declare null and void the seizure effected in the custom-house of this *this* capital, of certain goods brought in said bark
on her last voyage to this port, on the plea of certain reasons
133 of equity on which he founded his petition, and the proving
that the omission in the ship's manifest, which was the cause of said seizure, was not a voluntary act, and that the petitioner

never had entertained the intention to import fraudulently into this port any part of the merchandise shipped in his vessel. It happens, however, that your Imperial Majesty has found in your high wisdom, that the allegations contained in the petition were not admissible, and therefore your Imperial Majesty has deter-
mined, by the decision pronounced on the subject, that the
134 said seizure having been made in accordance with the law,
should have its lawful effect.

But, sir, one of these consequences will be the loss of the goods thus seized, which will never be returned to the shippers, and will be sold, and the proceeds applied according to the disposition of the code of the 22d June, 1836, article two hundred and eighty-nine, and the parties making the seizure will be obliged to pay the duties for home consumption; whilst, on the other hand, the
one hundred and fifty-fifth article of the same code requires
135 the same application, however, as the duties to be levied
on the goods herein referred to, even before their seizure,
and the said duties had already been paid by their respective consignees.

The petitioner, therefore, most respectfully prays your Imperial Majesty that, even as a natural consequence of the seizure of said goods having been effected, your Imperial Majesty be pleased to ordain the restitution of the duties already paid in as above stated,
and which, according to the present legislature, must be con-
136 sidered as belonging to the person who has sustained the loss
of the goods; besides, the effect above stated follows also, if
the seizure be legal, the other effect of the penalty inflicted on the petitioner for the aforesaid omission in the manifest of the vessel, which penalty, by reason of its exorbitant amount, is beyond the means of the petitioner, and will be the cause of his complete ruin and unavoidable misery to his family, a perfect stranger to the fact which constitutes the cause of this punishment, and of which the
petitioner himself is totally innocent, not having wilfully
137 given in cause for it, nor attempted to defraud the public
revenue; and having contrived to submit with the greatest
respect and submission before the throne of your Imperial Majesty all the circumstances in attenuation of this accident, and that it is only by a legal presumption that he is consituted the author of said accident, under these circumstances the petitioner begs to implore again the infinite munificence of your Imperial Majesty, trusting
to the clemency of your paternal heart, and trusting that
138 the benevolent feelings of your Imperial Majesty will be, as
always, in favor of yours who are placed in such a distress-
ing position.

And therefore he humbly prays your Imperial Majesty, that making the use of the most elevated prerogative of the crown, of the most precious jewel which adorns the diadem of your Imperial

Majesty, you may be pleased to grant to the petitioner and to his distressed family the remission of the penalty referred to, and to ordain that the bail entered into for its security may be released.

139 The petitioner so prays and supplicates your Imperial
Majesty to grant the requested grace; and he will ever
pray, &c.

For ROB'T MORRIS HALSTED,
NAT'L SANDS.

Rio de Janeiro, the 15th day of July, 1853.

Decision.

The surveyor of the custom-house please to inform.

Dated at the General Direction of the Public Revenue, the 16th day of July, 1853.

SAMPAIO VIANNO.

No. 58.

MOST ILLUSTRIOUS AND EXCELLENT SIR:

The demand of the petitioner is divided into two sections: the
first section comprises the restitution of the duties paid on
140 the goods which were seized; and the second the remission
of the penalty inflicted, amounting to one-half the value of
the said goods so seized.

As regards the 1st section, as it falls within the jurisdiction of this department, it has already been satisfied on the 18th inst.

As to the second section, it depends entirely upon the action of
the supreme government, because being a point of law and amounting to the sum of two centor six hundred and thirty-one mil and
five hundred reis, it is not within the limit of the authority
141 of the surveyor's office. It appears to me that the remission could be granted on account of the said goods seized
having been landed and sent to the custom-house, where the
seizure was made. The said penalty would certainly be very
severe, as he would suffer more than if the contraband had been
committed outside.

This is what I have to bring to your notice, most excellent sir, and you will be pleased to ordain according to justice.

May God have your excellen*tl*y in his holy keeping.

142 Custom-house, the twentieth day of July, 1853.

To the Most Illustrious and Excellent DIRECTOR GENERAL OF THE PUBLIC REVENUE.

(Signed) PEDRO JOSÉ PINTO DE SERQUINO.

Opinion.

As it regards the first section of the petition hereunto annexed, there remains nothing to grant, as it is already granted by the custom-house, this decision being within its jurisdiction.

As regards the demand for the remission of the penalty inflicted on the vessel, this being the exclusive attribute of the supreme power to grant it or not, as in its wisdom it may see fit.

143 It is, however, my place to observe that the captain of the American brig "Nebo" having succeeded in obtaining a like remission in the month of October, 1851, the United States legation took advantage of this act to claim the restriction of the articles which had been seized, or of their value, as it appears from the official note of the 28th of October of this year, transmitted with a notice from the department of foreign affairs on the 144 21st of the same month, and insisting afterwards on the same demand, which claim is still pending.

Direction General of the Public Revenue, the 25th day of July, 1853.

SAMPAIO VIANNO.

It has been ordered to release the petitioner from the penalty on the 30th day of July, 1853.

In witness whereof, this has been given by the first section of the general direction of the public revenue, on the eighth day of May, in the year eighteen hundred and fifty-four.

Written and signed by me.

LEWIS ANTONIO GOULARD,
Internal Chief of the said Section.

The sub-director ad in.,
145 ANTONIO ROZENDO RODRIGUEZ GOULARD.

Rubricated with the office mark, Rio de Janeiro, the 23d day of May, eighteen hundred and fifty-four.

In witness (mark) whereof—
(S'gd) CAMILLO LAZARO JOSÉ GIUNSARAIENZ.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro.

I, the undersigned, acting consul of the United States, hereby certify the above signature to be the true and proper handwriting of Camillo Lazaio José Guinsaraienz, notary public ad interim in this city, whose deeds are accredited both in and out of judicature.

[L. S.] Given under my hand and seal of office the 20th day of June, 1854.

ROBERT G. SCOTT, JR.

146 MANUEL OLEGARIO ABRANCHES.

At the execution of a commission for the examination of witnesses between John Greenway and other libellants against the bark Griffin, defendant, this paper writing was produced and sworn to Manuel Olegario Abranches, and by him deposed unto at the time of the examination before me.

JNO. J. C. WESTWOOD,
Commissioner.

Bill of Lading.

Shipped in good order and well conditioned by Leland & Davison on board the bark called the "Griffin," whereof Halsted is master, now lying in the port of New York, and bound for Rio de Janeiro—to say, one hundred and thirty-two boxes chairs
147 and furniture, to be delivered at the ship's tackles; being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the port of Rio de Janeiro, the dangers of the sea and fire only excepted, unto Messrs. Greenway & Co., or to their assigns, he or they paying freight for the said boxes fifteen cents per cubic foot, with 5 per cent. primage and average accustomed.

N. J. O. Abranches & Co.,
$\$\frac{1}{8}$.

In witness whereof, the master or purser of said vessel hath affirmed to 4 bills of lading, all of this tenor and date, one of
148 which being accomplished, the others to stand void.

R. M. HALSTED.

Dated in New York the 30th day of Nov'r, 1852.

Freight, 2,613 feet, at 15 c. p. foot.........	$391 95
Primage 5 per cent. of.........................	19 59
	$411 54

U. S. District Court, south. dist. of N. Y.

JOHN GREENWAY & GEORGE C. DICKSON
vs.
THE BARQUE GRIFFIN, HER TACKLE, &C.,
and others.

The libellants and respondents hereby consent and agree that a copy of such of the statute laws of the kingdom of Brazil as relate to the revenue, to the duties of masters of vessels arriving there, or the documents of such vessels, or as authorize regulations touching the revenue, or the entry or the documents of vessels, or the discharge of cargo, or other port regulations, certified
149 to be a true copy of such statute laws by the U. S. consul for Rio de Janeiro, and also a copy of the regulations, by order of the government of Brazil, for the observation of master, officers, and owners of vessels arriving at the port of Rio de Janeiro, certified to be a true copy of such regulations by the said consul, be deemed sufficient evidence for the purposes of this cause to prove what such statute laws and such instructions are and have been during the period stated in such certificate, such proof
150 thus made to be subject to all legal objections, excepting as to the manner of it.

The said parties also agree, that a copy of the manifest of the cargo of the barque "Griffin" discharged from her, on her arrival at said port from New York in February, 1853, which manifest is on file in the custom-house of Rio de Janeiro, certified to be a true copy thereof by the said consul, be read in evidence in this cause with the same force and effect as the original manifest itself, subject to all legal objection.

NELSON CHASE,
Proctor, &c.
151 JOHN HOWLAND,
In proper person.

U. S. District Court. John Greenway, &c. vs. Barque Griffin, Dr. Stipulation. Read in evidence July 12, 1855.

By this public instrument of protest be it known and made manifest, unto all to whom it doth or may concern, that on the 15th day of March, in the year of our Lord 1853, personally came and appeared before the undersigned, consul of the United States at this city of Rio de Janeiro, Robert M. Halsted, a citizen of the United 152 States, and master of the vessel of the United States called the "Griffin," who being duly sworn on the Holy Evangelist of Almighty God, did depose and declare as follows: That said vessel arrived at this port on the 23d of January of this year, from New York, with a cargo of merchandise; that he, said master, applied to Messrs. Greenway & Co., merchants of this city, to act as consignees of said vessel, and that thereupon they did agree to take the said consignment, and did assume all the duties of 153 consignees aforesaid, and act as such; that after said vessel was loaded and was ready to clear from this port he, the said master, informed them of the fact, and requested them to take the usual steps to clear her; that said Greenway & Co. did undertake so to do, and did, on the 26th day of February last, obtain from the office of the consul of the United States all the necessary papers and certificates to clear said vessel, and did also obtain from the custom-house in this city the usual and necessary certifi- 154 cate of dezembaraco, that said vessel was free to obtain her full clearance; that there was no obstacle to such clearance; but that said Greenway & Co., consignees as aforesaid, although informed of all the facts of the anxiety of the deponent to depart on his voyage, did neglect and refuse to take the other necessary steps to clear said vessel, but retained all said papers until the 8th day of March instant, and by this neglect and refusal the 155 said vessel was unnecessarily detained in this port for the time aforesaid, to the great loss of said vessel, owners, and all interested therein.

And said deponent further says, that said Greenway & Co., as consignees aforesaid, are justly indebted to him as master, for the

use of said owners, in a large sum of money, viz., the sum of at least seventeen hundred and thirty milreas and 650 reas of the currency of Brazil, for freight money on the inward cargo collected by them, and being the balance due after deducting all their
156 proper and rightful charges for services and disbursements and other matters; and that although said deponent has requested them to pay said balance to him, they utterly neglect and refuse so to do, and he is obliged to raise money at much trouble, labor, and expense to pay the necessary expenses and charges of said vessel in this port, and to depart without the said balance justly due.

And said deponent further declares, that he denies and protests against the claims and charges of said consignees in their
157 account rendered, and particularly against the charge of commissions on the outward cargo or freight, and the charge of about twelve thousand milreas, more or less, for goods asserted to be not delivered to the party named in said account.

Wherefore the said Rob't M. Halsted, for himself and the owners of said vessel and all persons interested, declares to protest, and by these presents doth most solemnly protest against the said Greenway & Co., and all persons aiding or abetting them, for said
158 neglects and refusals, and delays and detentions of said vessel and said money, for all losses, costs, damages, expenses, and prejudices which have arisen or may arise or accrue in consequence thereof, in order that all said losses, costs, damages, expenses, and prejudices, may be borne, suffered, and sustained, made good and recovered of those to whom it doth or may appertain.

This done and protested at Rio de Janeiro this 11th day of March, A. D. 1853.

(Signed) ROBERT MORRIS HALSTED.

Witness—(Signed)
EDWARD KENT.

159 In testimony whereof I have hereto set my hand and seal of office the 11th day of March, A. D. 1853.

(Signed) EDWARD KENT,
U. S. Consul.

Consulate of the United States hereby certify the above and foregoing to be a correct copy of the original on record at this consulate.

{Consulate U. S. (Seal.) Rio de Janeiro.} Given under my hand and seal of office on the 11th day of March, A. D. 1853.

EDW'D KENT,
U. S. Consul.

Endorsed: Bark Griffin. Protest of Capt. Halsted at Rio.

A.

United States of America,
Southern District of New York,
City, County and State of New York, ss.

Be it remembered, that on this 17th day of September, in the year of our Lord one thousand eight hundred and fifty-six, I, R. E. Stilwell, a commissioner duly appointed by the circuit
160 court of the United States for the southern district of New York, in the second circuit, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,' passed March 1st, 1817," and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call and cause to be and personally appear before me, at my office, in the city of New York, in the said southern district of New York, in the State aforesaid, to testify and the truth to say, on the part and behalf of the appellants, in a certain suit or matter of controversy, now depending and undetermined, in the circuit court
161 of the United States for the southern district of New York, wherein John Greenway and George C. Dickson are libellants and appellees, and the barque Griffin and Samuel Meeker and others are claimants and appellants.

And the said Edward T. Davison being about the age of twenty-eight years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said , and he did thereupon depose, testify, and say as follows, viz:

I am a partner in the firm of Leland & Davison, in 1852 and '53; I know the firm of Greenway & Co. in Rio Janeiro; our firm executed an order for the purchase of goods, said to be for
162 account of Abranches & Co., the order coming to us through Messrs. Greenway & Co. The goods were shipped by the bark Griffin. They were chiefly marked to Abranches & Co. The goods were bought for cash, of a great many different parties. Some of them were purchased of the Union India Rubber Co.; some of Joseph Bradly; I know, through correspondence of Greenway & Co., that the goods reached Rio Janeiro; I understood, from our correspondence, that the vessels were consigned to Greenway & Co., and afterwards changed. There was a regular invoice of the goods sent to Greenway & Co.; that invoiced

163 contained a list of the goods and invoice price; the goods were purchased on commission.

EDW'D T. DAVISON.

Sworn to before me, this 17th Sept., 1856.

R. E. STILWELL,
U. S. Com'r.

Adjourned to Monday, the 22d, at 11.

The following translations to be used on the argument of this case in the Supreme Court, under consent of proctors, dated Nov. 23, 1858.

A 1.

Decree of the regent, in the name of the Emperor of the Brazils, Don Pedro II, in virtue of authorization given the government on 3d September, 1833, and by article 15 of the law of 31st October, 1835, directing the custom-houses to observe the following regulations in the different ports of the empire.

164 *Duties of the Visiting Officers.*

Page 6, art. 37:

1. To visit all vessels as they enter the port, or that anchor outside, the day of arrival, to demand from the captains the manifest, and all other documents that they are obliged to give up.

2. To deliver the manifest and papers to the collector as soon as possible.

8. To serve as interpreter in every act relative to the custom-house.

Page 22, chap. 8:

Duties of the Masters of Ships, and of their Manifests.

Art. 145:

165 4. To give up to the boarding officer, (Guarda Mor,) on arrival, his passport and manifest.

7. To give the inspector of the custom-house, within three days after arrival, two literal translations of his manifest, under the penalty of a fine of 50 milreas.

9. To take particular care that no goods whatsoever be landed from his vessel without a written order from the inspector of the customs, accompanied by a custom-house officer; and if any goods be landed without such permission, the captain will be fined 100 milreas for each package, and also the value of it.

Page 23, article 146:

166 The commander of the vessel bound to any part of this empire must bring two copies of her manifest, according to the following formula:

1. The name, class, and tonnage of his vessel.

2. The name of the captain, and date of entry, and date of the signature of the same.

3. The port in which the cargo was rec'd.

4. The port of his destination.

5. The marks, counter marks, and number of packages, and their denomination, as cases, bales, and such, &c.

6. The quantity and quality of each package when possible, and what comes in bulk.

7. The consignees' names; or if to order, all must be written in full, except the number of packages, and on whole sheets.

Article 148, page 23:

At the end of the manifest, the captain must declare the
167 number of passengers, either in the cabin or in the steerage,
and must make all other declarations or statements for his security by adding any packages that may be omitted or exceeded in his manifest, giving his reason for such omissions; no excuse will afterwards be admitted for any omissions or error.

Article 151, page 23:

In the absence of a Brazilian consul at the port of loading, the manifest must be authenticated by two Brazilian merchants; or if none exists, then by two native merchants, to be sealed by
168 them under their signature.

Article 155, page 24:

When it is proved that the vessel brought more goods than is specified or contained in the manifest, and not declared by the captain, such goods will be seized and divided among the seizers, the captain also paying into the national treasury a fine of one half their value, besides the customary duties thereon.

Art. 156, page 24:

On finding that there are less goods landed than are contained in the manifest, and the additions thereon made by the captain by his entry, they will be considered as lost, and the captain
169 will be liable for their value, besides a fine of one half the
value to be paid to the national treasury.

Art. 157, p. 24:

For any difference in the package, or its marks, the captain will be fined two milreas, notwithstanding all the rest of the cargo may be landed according to manifest.

U. S. District Court.

JOHN GREENWAY, Libellant,
vs.
THE BARQUE GRIFFON, HER TACKLE, &C.,

Translation of parts of the laws, &c., of Brazil, from the printed documents certified by the consul.

This translation made and read in the district court.

DA COSTE.

(ALFANDEGA.)

B 1, B 2.

Instructions approved by order of the Treasury, dated
170 23d April, 1850, to be observed by the masters of merchant
vessels entering this port:

Art. 1st. The master of a merchant vessel entering this port must comply with the following regulations:

1st. To go directly with his vessel from the entrance to the harbor to the anchorage ground in franquia, and to cast anchor close to the guard vessel, (barca de vigia,) or at the place ordered from on board their vessel.—(See art. 4th and 8th.)

2d. Not to leave their anchorage, or any other to which he may be ordered to remove, without a written permit from the custom-house be presented to the respective guard vessel.

171 3d. He must not suffer, without a written permission from
the custom-house, any kind of vessel to board him, nor any
person to come on board excepting the health visit-boats, those of
the captain of the port in case of need, and police boats.

4th. He must deliver to the Guarda Mor, when he makes his visit on arrival, his passport, manifest, list of passengers, and of their luggage.

5th. He must deliver to the "Guarda Mor," when he makes his visit on arrival, if there be any increase or deficiency of goods in his manifest.

6th. He must enter himself at the custom-house within 24 hours
after the Guarda Mor has been on board, and in case of sickness to
send a person in his place and deliver to the inspector the
172 2d copy of the manifest, and sign the declaration of entry.

7th. He must deliver to the inspector of the custom-house, within three days after entry, two translations of his manifest certified by a broker.

8th. He must deliver on duplicate a list of his provisions
173 and stores within 48 hours after the Guarda Mor has been
on board at his arrival.

9th. He must deposit his stores within 48 hours after presenting the said lists at the Islar dur Colrar, or any other place pointed out by the custom-house.

10th. He must not delay the vessel in any of the anchoring
173 grounds more than 24 hours after being notified by the
custom-house to leave it.

11th. To haul up to the custom-house wharf as soon as he be notified.

12th. He must discharge no part of his cargo but by an order in writing from the custom-house, and must unload with all possible speed without any interruption, the discharges to commence at the hour marked by the custom-house.

13th. He must give notice within 24 hours after having finished his whole unloading, to the "Escrivao da descarga," that he is ready to receive the usual custom-house clearing visit.

174 14th. He must be present at all the proceedings of unloading the vessel, sign their lists, and make at the same time any declaration he may consider necessary with reference to packages damaged by sea-water or broken, as also with regard to differences of marks and descriptions of packages.

15th. He must comply with all orders and intimations which may be made to him according to the custom-house regulations.

16th. He must take all possible care to preserve the seals put by the officers of the custom-house on the hatches or any other part of the vessel.

175 17th. He must keep his vessel in the place and position that shall be pointed out to him within the boundary of the respective anchorages.

18th. He must keep a light hoisted 18 feet above deck during all night whilst remaining in franquai in the unloading ground, or at the custom-house wharves, or its neighborhood, under a fine of 10,000 reis for every night's omission.

Art. 2d. Whenever masters receive on board of their vessels any goods despatched for re-exportation, they shall pass a receipt on the respective "guias," which are to be delivered to the custom-house.

176 Art. 3d. The violation of any of the articles of this regulation will subject the defaulter to a fine of 100,000 reis, according to the circumstances of the case, and nature of the offence, in conformity to the respective regulations.

RIO JANEIRO, *March* 18, 1850.

Conforme.

JOAO MARIA JACOBINA.

The above to be carried into execution.
Custom-house, April, 25th, 1850.

SILVA FERRAZ.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro.

I, the undersigned, consul of the United States, hereby certify the annexed printed document to be the regulations of the port of Rio de Janeiro, enforced since the month of April, 1850.

Given under my hand and seal of office, on this 14th day of July, [L. S.] A. D. 1853.

For EDWARD KENT, *U. S. Consul*,
CHAS. BAYNSFORD.

Endorsed: Certified copy of the laws of the port. Read in evidence.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro.

I, the undersigned, consul (acting) of the United States at this

port of Rio de Janeiro, hereby certify that the papers hereto annexed, and marked A 1, contain a true copy of the general regulations of the custom-houses, to be observed throughout the empire of Brazil, relating to the revenue, to the duties of masters of vessels arriving at this and all other ports of the said empire, the entry of vessels and their documents, the discharge of the cargo, and the various other revenue regulations decreed and published by
178 the imperial government of Brazil in conformity and by the authority granted in the statute laws and acts of the legislature, the copies of which are contained in the annexed documents, marked A 2 and A 3. Also that the regulations contained in the document marked A 1 have been in constant observation since the date they bear, with the exception of the alterations pointed out in the decrees 203 of 22 July, 1842, and No. 1,385 of 26 April, 1854.

I further certify that the documents annexed, marked B 1 and B 2, contain, the former a true copy of the so-called "regu-
179 lations of the port," which are handed to the masters of vessels arriving, for their guidance and direction in reference to the revenue laws; the latter a true copy of the order of the imperial treasury, in virtue of which said port regulations were issued on 18th March, 1850.

And further, that the annexed document marked C, signed by Fillippe Viura da Costa, first clerk ad interim of the customs of this city, and by Pedro José de Castro, notary public, is
180 clothed in form to be received by the courts of law of this empire as a true copy of the official translation of the manifest of the cargo of the American barque "Griffin," arrived at this port in February, 1853, which manifest is on file in the public archives of this city.

Given under my hand and seal of office on this the 27th day of June, A. D. 1854.

[L. S.]

ROBERT G. SCOTT, JR.

U. S. District Court.

JOHN GREENWAY et al.
ag'st
THE BARK GRIFFON, &c.
} Calendar No. 21.

We hereby consent that the above cause be set down for trial on the third Tuesday of this month.

April 3d, 1855.

WEEKS & DE FORREST,
Libel'ts' Proctors.
NELSON CHASE,
Clm'ts' Proctors.

Endorsed: U. S. district court. 10. 522. John Greenway & al. vs. The Bark Griffon, &c. Consent to set down cause. Filed 181 April 3d, 1855.

U. S. Supreme Court.

JOHN GREENWAY and GEORGE C. DICKSON, Libellants,
and
THE BARK GRIFFON, &c., Respondents.
} On Appeal, &c.

On appeal from the circuit to the Supreme Court of the United States, at Washington, it is understood that the translations of the laws and custom-house regulations of the port of Rio, Brazil, or such portions thereof as were referred to and used before Judge Nelson in the circuit court, which are made part of the case in the Supreme Court, *and* considered sufficient evidence of what such laws and regulations are or were as applicable to the present 182 case.

And it is hereby further understood and agreed that the paper or document appended to the certificate of the American consul at Rio, marked C, is a copy of the manifest of the bark Griffon, on file in the custom-house at that port, does not contain any mention or memorandum of the 132 boxes of furniture shipped on board of said bark, as per bill of lading, recited and referred to in the libel and pleadings in the cause.

Dated Nov. 27, 1858.

NELSON CHASE,
Proctor for Respond'ts.
183 WEEKS & DE FORREST,
For Libellants.

At a stated term of the district court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Wednesday, the 13th day of June, 1855; present, the Hon. Sam'l R. Betts, district judge.

JOHN GREENWAY et al.
vs.
THE BARK GRIFFON, HER TACKLE, &c.

This cause being called in its order on the calendar, ordered hearing. Pleadings read.

Evidence of the libellants:

Deposition of Juan Ignacio Magualhaez read.
Deposition of Francisco E. Cohen read.
Deposition of Manuel Abranches read.
Copy petitions for remission read.
Stipulation read.
Regulations of port and custom-house read.
Laws of Brazil read.

Certificate of consul read.

Evidence for claimants:

Bill of lading read.

Thursday, June 14, 1855, cause continued.

184 Protest of Capt. Halsted 17th March, 1853.

Mr. Lord opens for the libellants.

Mr. Stoughton argues, claimants.

Mr. Lord argues, libellants.

Cur. adv. vult.

At a stated term of the district court of the United States of America for the southern district of New York, held at the City Hall, in the city of New York, on Tuesday, the tenth day of July, in the year of our Lord one thousand eight hundred and fifty-seven; present, the Honorable Samuel R. Betts, district judge.

JOHN GREENWAY et al.
vs. } 10. 522.
THE BARK GRIFFIN, HER TACKLE, &c.

This case having been heard on the pleadings and proofs, and
argued by the advocates for the respective parties, and due
185 deliberation being had in the premises, it is now ordered,
adjudged, and decreed by the court, that the libellants recover in this action against the bark Griffin, her tackle, and the value of the bill of lading in the pleadings mentioned, and that the said bark be condemned therefor.

And it is further ordered, that it be referred to a commissioner of this court, to ascertain and compute the amount due the libellant on the bill of lading aforesaid, and to report thereon to this court with all convenient speed.

186 (Signed) SAM'L R. BETTS.

U. S. District Court.

JOHN GREENWAY et al. } WEEKS & DE FORREST.
vs. } Reference.
THE BARQUE GRIFFIN, HER } G. F. B.
TACKLE, &c. } N. CHASE.

1855, July 24. Mr. De Forrest appears for libl'nts, Messrs. Chase & Halsted for claimant.

De Forrest read, direct ex'n, deposition of Manuel Oligario Abranches from the files in the cause, taken under commission, (taken subject to obj'ns.)

Reads 1st, 8th, 13th, 16th.

Mr. Chase put in the cross-ex'n on such depositions.

Edward F. Davison examined for libellants; (his deposition is annexed.)

Mr. De Forrest rests here the case of lib'ts.

Adj. to July 27, 11 a. m.

July 27, 1855. The resp't and claimant calls the attention of the commissioner to the following interrogatories in Abranches' deposition, viz:

187 5th, 9th, and 10th.

Cause is submitted.

Claimant files objections.

Objections specified are—

1st. The evidence don't show what the 132 boxes really contained.

2d. The evidence is too general as to the nature and character of the goods.

3d. The value attempted to be fixed is too uncertain and insufficient.

4th. No account of the contents of the said boxes given; no settled or specific valuation put on any of the articles.

5th. The witness by declining and refusing to give the custom-house valuation, or as purchaser of the 132 boxes, the price
188 they brought precluded his attempt to show a general valuation, and his whole testimony as regards valuation, unexplained and unsupported by other evidence, must be overruled.

Endorsed: 10. 522. U. S. dist. court. John Greenway et al. vs. The Bark Griffin, her tackle, &c. Minutes of testimony on reference, and obj. clm't.

G. F. BETTS, *Com'r.*

Filed July 31, 1855.

Commissioner's Report.

District Court of the United States, for the southern district of New York.

JOHN GREENWAY and GEORGE C. DICKSON vs. THE BARQUE GRIFFIN, HER TACKLE, &C. } Commissioner's Report.

In pursuance of a decretal order made in the above entitled
189 cause, on the tenth day of July, in the year of our Lord one thousand eight hundred and fifty-five, by which, among other things, it was referred to the undersigned, one of the commissioners of this court, to ascertain and compute the amount due the libellant on the bill of lading referred to in the libel, and to report thereon to this court with all convenient speed, I, George F. Betts, the commissioner to whom the matter was referred, do report, that I have been attended by the proctor for the libellants and for the claimants, and have taken and examined the testimony offered in support of the libellants' claim, and in opposition thereto, and do find that there is due to the libellants on the

bill of lading referred to in the libel the sum of six thousand nine hundred and eleven dollars and fifty-two cents.

Dated the 31st day of July, A. D. 1855.

All which is respectfully submitted.

GEO. F. BETTS,
U. S. Commissioner.

190 WEEKS & DE FORREST,
Proctors for Libellants.

Filed 31st day of July, 1855.

In the United States Dist. Court for the southern dist. of New York.

JOHN GREENWAY and GEORGE C. DICKSON, Lib'lnts,
vs.
THE BARK GRIFFIN, HER TACKLE, &c., Oliver S. Halsted, jr., Samuel Meeker, John Chadwick, and John Howland.

Exceptions taken to the report of George F. Betts, esq., one of the commissioners of this court, bearing date the 31st day of July, 1855, on the part of the respondents.

First exception: For that the said commissioner hath not fully and properly certified and reported the proceedings before him on the reference.

Second exception: Because it is not shown by said re-
191 port that any person appeared before said commissioner on
the part of the resp'dt.

Third exception: Because it does not appear by said report that any exceptions or objections were made before the commissioner in behalf of respondents to the proceedings taken by the libellants, or to any testimony offered in support of their claim.

Fourth exception: Because the bill of lading referred to in said report, and from which the said commissioner found there was due
from the respondents to the libellants the sum of $\$6,911\frac{52}{100}$,
192 was not put in evidence, and contained no data by which a
valuation could be fixed, or the amount, if any, due the libellants, could be determined.

Fifth exception: Because the testimony of Manuel Olagario Abranches offered by the libellants in proof of the amount of their claim, and objected on the part of the respondents, were wrongfully admitted by the commissioner, the same being illegal and incompetent.

Sixth exception: Because the deposition of said Abranches should not have been received by the commissioner as evidence of
the value of the goods claimed by the libellants, as on its
193 face it appeared that he, Abranches, of his own knowledge,
did not know the value thereof to the libellants.

Seventh exception: Because the deposition of said Abranches showed that there was other, higher and better testimony to prove the claim of the libellants, if any they had or have, than was contained in his deposition.

Eighth exception: Because the libellants did not produce or offer before said commissioner legal and competent testimony of the value to them of the 132 boxes mentioned in the bill of lading referred to in said report. 194

Ninth exception: Because it appeared by the deposition of said Abranches, as admitted by said commissioner, that the libellants did not offer proper nor the best testimony to prove their claim, and that they suppressed and kept back the only testimony by which they could justly or legally recover.

Tenth exception: Because the libellants did not prove the contents of the 132 boxes referred to in the bill of lading, nor give in evidence any inventory or invoice thereof, nor show in proper manner the cost thereof, nor the value thereof to the libellants, at Rio de Janeiro or elsewhere. 195

Eleventh exception: Because the report of the said commissioner was made unadvisedly and without due consideration, the "testimony" therein referred to as offered by the libellant in support of their claim being incompetent, incomplete and insufficient, and such as did not warrant the said commissioner in finding the sum of six thousand nine hundred and eleven dollars and fifty-two cents, or any other sum due from the respondents to the libellants.

196 NELSON CHASE,
Proctor for Resp'dt.
OLIVER S. HALSTED, Junior,
SAMUEL MEEKER, and
JOHN CHADWICK.
JOHN HOWLAND,
Respondent in proper person.
NELSON CHASE,
Of Counsel for Respondents.

Endorsed: 10. 522. U. S. Dist. Court for the southern district of New York. John Greenway & George C. Dickson vs. The Bark Griffin, her tackle, &c., Oliver S. Halsted, jr., and other resp'dts. Exception of respondents to report of George F. Betts, esq., commissioner. Nelson Chase, proctor for the respondents; John Howland, respondent in person. Filed Aug. 2, 1855. 197

At a stated term of the district court of the United States of America, for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on Thursday, the second day of August, in the year of our Lord one thousand eight hundred and fifty-five.

Present, the Honorable Samuel R. Betts, dist. judge.

THE BARK GRIFFIN, HER TACKLE, &c., Oliver S. Halsted, jr., & others, Respondents,
vs.
JOHN GREENWAY & GEORGE C. DICKSON.

On filing exceptions to commissioner's report, and on motion of N. Chase, proctor for the claimant, it is ordered that the case be set down for hearing on the exceptions, on Tuesday, the 7th of August, inst.

Endorsed: 10. 522. U. S. District Court for the s. d. of N. Y. The Bark Griffin, &c., O. S. Halsted, jr., & als. ads. John Greenway & al. Nelson Chase, for resp'dts. Order for hearing
198 on exceptions to com'r's report. Filed 2d day of August, 1855.

At a stated term of the district court of the United States of America, for the southern district of New York, held at the City Hall, in the city of New York, on Thursday, the 25th day of October, in the year of our Lord one thousand eight hundred and fifty-five.

Present, the Honorable Chas. A. Ingersoll, dist. judge.

JOHN GREENWAY & al.
vs.
THE BARQUE GRIFFIN, HER TACKLE, &c.

This cause having been heard on the exceptions to the commissioner's report, and argued by the advocate for the respective parties—

On reading the report of George F. Betts, esq., U. S. commissioner, to whom the above matters were referred, by which there is reported due the libellant on the bill of lading referred to in the libel, the sum of sixty-nine hundred and eleven $\frac{52}{100}$ dollars, on motion of Messrs. Weeks & De Forrest, proctors for the libellants, it is ordered that the report be in all things con-
199 firmed, and that the libellants recover in this action against the barque Griffin, her tackle, &c., the amount reported due, with interest thereon from the date of the report, together with their costs to be taxed, and that the said barque, her tackle, &c., be condemed therefor. And on like motion it is further ordered, that out of the proceeds of the stipulations of the claimants for cost and value, when paid into the registry of this court, the clerk of this court pay to the libellants or their proctor the amount

reported due, together with their taxed costs. And on like motion of Messrs. Weeks & De Forrest, proctors for the libellants, 200 it is further ordered, that unless an appeal be taken to this decree, with the time limited and prescribed by the rules and practice of this court, that on payment into the registry of the court of the amount of the stipulations for costs and value, that the clerk distribute the proceeds in satisfaction of this decree.

(Signed) CHAS. A. INGERSOLL.

WEEKS & DE FORREST,
Proctors for Lib.

U. S. District Court, southern dist. of New York.

JOHN GREENWAY and GEORGE C. DICKSON,
Libellants,
vs.
THE BARQUE GRIFFIN, HER TACKLE, &c., and John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr., Respondents.

Take notice, that the above named respondents hereby appeal from the decree rendered by this court in this action on the 201 25th day of October, 1855, to the next circuit court of the United States for the southern district of New York, in the second circuit to be holden in said district, and said respondents will make new allegations, and introduce new proofs and evidence before the said circuit court upon such appeal, and will claim that such decree be reversed with costs.

Dated March 13th, 1856.

Yours, &c.,

JOHN HOWLAND,
Respondent in person.
NELSON CHASE,
Proctor for all respdts., except John Howland.

To GEO. T. BETTS, Esq.,
Clerk Dist. Court southern Dist. of N. Y.

To WEEKS & DE FORREST, Esq.,
Proctors for Liblnt.

Endorsed: 10. 522. U. S. district court, southern dist. of New York. John Greenway and George C. Dickson vs. The 202 Barque Griffin et al. Notice of appeal from district to circuit court. Nelson Chase, proctor for respondents; John Howland, in person. Filed March 13, 1856.

In Admiralty.—U. S. Circuit Court, south. dist. of New York.

John Greenway and George C. Dickson,
Libellants and Appel*lants*,
vs.
The Barque Griffin, her tackle, &c.,
and Samuel Meeker, John Chadwick,
John Howland, and Oliver Halsted, jr.,
claimants, Respondents and Appellants.

To the Honorable the Circuit Court of the United States for the southern district of New York, in the second circuit:

The appeal of the above named claimants and appellants respectfully shows, that on or about the sixth day of May, 1853,
203 the libellants filed their libel in the district court of the United States for the southern district of New York against the barque Griffin, her tackle, apparel, and furniture, and against the above named claimants and appellants, and also against James Smith and John Kennedy, as owner of said barque Griffin, and in and by their said libel the libellants alleged, claimed and stated in substance as follows:

First. That on or about the month of November, 1852, Messrs. Leland & Davison, a mercantile firm in the city of New
204 York, shipped on board of said barque, then lying in said city, one hundred and thirty-two boxes, containing chairs and furniture, to be carried on said barque from said city to Rio de Janeiro for the freight of fifteen cents per cubic foot, with five per cent. premium and average accustomed to be paid therefor, and to be delivered at the last mentioned place to the libellants or their assigns, they paying the said freight and primage, the entire freight and primage amounting to four hundred and eleven
205 dollars and fifty-four cents.

Second. That the master of said barque received the said goods on board of her for the purposes aforesaid, and executed and delivered to the libellants or in their behalf a certain bill of lading, a copy of which the libellants annexed to their libel, marked Schedule A.

Third. That the said barque proceeded with the said goods on board to the port of Rio de Janeiro, and arrived there in or about the month of February, 1853; and notwithstanding the libellants were then and there, at all times, ready and willing to re-
206 ceive said goods there, in good order, and to pay the freight and primage aforesaid; yet said master had not yet delivered the said goods to the libellants or their assigns, in good order or otherwise, but had wholly neglected and refused so to do.

Fourth. That the libellants had been informed, and believed, that the said barque was a general vessel; that the custom-house

regulations and the laws of the port of Rio de Janeiro required that masters of vessels arriving there, or the vessel's owner or
207 agent, should make out a correct list or manifest of the cargo on board, specifying the different parcels and shipments, which list or manifest was an essential and necessary ship's paper, and required to be furnished by her master or owners at that port, and that goods not mentioned in such list or manifest could not, by the laws of Brazil, be passed through the custom-house at Rio de Janeiro, but were subject to seizure and confiscation by the Brazilian government, on account of such neglect and omission.

208 That such master made out such list or manifest, but the said 132 cases were not mentioned or specified therein, and that said master wholly neglected and omitted to mention them therein, and that by reason of such neglect and omission the said goods were, at or shortly after the arrival of the said barque at Rio de Janeiro, seized by the revenue officers there, and kept by them in their possession and control, on the claim that they were confiscated to the use of the government of that place, and, as the libellants were informed and believed, that the said goods were
209 confiscated by said government by reason of the premises, and by reason of the said master's default.

Fifth. That the libellants had demanded the delivery of said goods to them at Rio de Janeiro, and had offered to pay the freight thereon; that the value thereof at that place, at or about the time of the arrival of the said barque there, was five thousand nine hundred and eleven dollars and fifty-one cents, and that the said goods were wholly lost to the libellants, who were the true and only
210 consignees thereof, by reason of the neglect of the said master to deliver the same pursuant to said bill of lading.

And the libellants in and by their said libel, amongst other things, prayed process against the said barque Griffin, her tackle, apparel, and furniture, and that the above named Oliver S. Halsted, jr., James Smith, John Kennedy, Samuel Meeker, John Chadwick, and John Howland, owners of said barque, and all other persons having or pretended to have any interest in said vessel, might be cited to appear and answer the matters aforesaid,
211 and that the court should decree to the libellants the sum of $5,911 and 51 cents, and interest thereon from the first day of February then last past, the libellants' damages for the non-delivery of said goods, pursuant to the said bill of lading, and the premises, with costs, and that said vessel might be condemned and sold to pay the same.

And these appellants further show, that the libellants afterwards, and on or about the 26th day of July, 1853, filed amend-
212 ments to their said libel, striking out of said libel the names of the said James Smith and John Kennedy, as defendants therein.

And these appellants further show, that process having been issued out of the said district court upon the said libel, and by virtue of such process the said vessel having been seized and arrested, these appellants, in or about the 10th day of August, 1853, filed their answer to said libel in the said district court, showing, amongst other things—

First. That they were the owners of said vessel, and that
213 they were such owners in the month of November, 1852,
and that Leland & Davison did, at or about that time, ship on board of said vessel, whereof R. M. Halsted was then master, one hundred and thirty-two boxes of chairs and furniture, to be delivered at the ship's tackles, at the port of Rio de Janeiro, to Messrs. Greenway & Co., or their assigns, as per bill of lading signed by said captain, or duplicate thereof, in the possession of the appellants, they prayed leave to refer to.

Second. That the said master of the said vessel proceeded
214 with her on her said voyage, and arrived at Rio de Janeiro
some time in the month of Feb'y, 1853, and, as they were informed and believed, then and there delivered to Messrs. Greenway & Co., the consignees, the boxes of chairs and furniture mentioned and referred to in said bill of lading, in accordance with the terms and conditions thereof, and made the freight due thereon, but that neither the said Greenway & Co., nor any one in their behalf, ever proposed to pay or offer to pay the freight money
due thereon, but wholly neglected to pay and refused to pay
215 the same.

Third. That said boxes of chairs and furniture were received by the said Greenway & Co., on their behalf, according to the terms and conditions of said bill of lading, and that the same were under their directions passed into the custom-house at Rio de Janeiro, and were duly examined by the owners and the proper government officers, and the duties paid thereon by the consignee, the said boxes of chairs and furniture remaining *and* control of
the said consignees, they never having abandoned the same,
216 or gave any notice of their intention to abandon the same
to these appellants, or to any one on their behalf.

Fourth. These appellants, by their said answer, denied that a failure to mention such goods in the manifest of the vessel would have *suggested* them to seizure and confiscation, or that such seizure or confiscation would or could *took* place after the goods had been entered at the custom-house and the duties paid and received thereon; and they further denied that the master made out any list or manifest of the cargo, omitting the said 132 cases, were seized or confiscated by reason of the neglect, omission, or default of the said master.

217 Fifth. That the goods mentioned in the libel were duly
discharged in accordance with the said bill of lading, cargo

books, and freight list then in the hands of the said master, in conformity with the laws and regulations of the port of Rio de Janeiro and under the inspection and order of the proper government officers; that the said 132 boxes or packages were duly delivered to the libellants, as by the terms of the bill of lading required, and went into the custom-house under their direction, they hav- 218 ing paid the duties thereon; that they were not subject to seizure or forfeiture by the laws of Brazil, and that if any seizure or forfeiture had taken place it had been in violation of law through the neglect, default, mismanagement, or connivance of the consignees or their agents, and not through any fault or omission of the captain or owners of said vessel.

Sixth. That after the delivery of the 132 boxes as aforesaid to the libellant at Rio de Janeiro in good order, at the ship's tackles, as per bill of lading, they, the consignees, became responsible 219 for their safety and proper direction; that said goods were not confiscated or forfeited to the government nor abandoned by the consignees or owners, no notice of any such confiscation or abandonment ever having been given by the consignees to the captain or owners of said vessel, nor any offer to pay the freight thereon, nor any demand of any damage which might or could arise by reason of any forfeiture, confiscation, or abandonment, as aforesaid; and these appellants denied the right of the libellants to maintain their said suit in that behalf until a confiscation or forfeiture had 220 taken place by reason of the default or negligence of the said captain or the owners of said vessel, and a failure on their part to fulfil their contract of affreightment, as contained in the said bill of lading, or an abandonment of the goods on the part of the libellants, with due notice thereof to these appellants, with an offer to pay the freight due thereon.

Seventh. That by the delivery of the said 132 boxes of chairs and furniture, as specified in said bill of lading, at the ship's 221 tackles, in good order, to the consignees at Rio de Janeiro, in accordance with the contract of affreightment, the vessel did then and there earn the freight by virtue of the said bill of lading, and that said vessel was not liable to be proceeded against either at Rio de Janeiro or in New York, by attachment or otherwise.

Eighth. And these appellants in and by their said answer prayed, that the said district court would pronounce against the said libel and condemn the libellants in costs.

And these appellants further show that the libellants, on 222 or about the 11th day of August, 1853, filed their replication to the said answer, as by reference to the said libel, answer, and replication, reference being thereunto had, may more fully appear.

That the said cause came on to be heard before the honorable

Samuel R. Betts, judge of the said district court, upon the said libel, answer, replications and the depositions and proofs taken by the respective parties; and the said judge having advised therein, on the
10th day of July, 1855, made an interlocutory decree
223 therein, whereby it was decreed amongst other things that
the libellants recover against the said vessel the value of the said 132 boxes of chairs and furniture mentioned in the bill of lading set forth in the said libel, together with their costs of this action, and that it be referred to one of the commissioners of this court to compute, ascertain, and report the amount of the libellants' damages for the non-delivery of the said 132 boxes of chairs and furniture mentioned in the said bill of lading, as by reference to the said interlocutory decree may more fully appear.

224 Under said interlocutory decree a reference was had to
George F. Betts, esq., one of the commissioners of this court, who, on the 31st day of July, 1855, reported that there was due the libellants on the bill of lading referred to in the libel, the sum of six thousand nine hundred and eleven dollars and fifty-two cents.

That these appellants duly filed exceptions to the report of the said commissioner; that the said cause afterwards and on the day of , 1855, came on to be heard before the Hon'ble Charles A. *Ingersolly*, district judge, upon the said pleadings, depositions,
proofs, and exceptions to the report of the said commis-
225 sioner, and the said judge having advised thereon, on the
25th day of October, 1855, made a final decree in said cause overruling the exceptions to said report and confirming the said report in all things.

And in and by the said final decree the said judge did further sentence and decree that the libellants do recover in the said action against the said barque Griffin, her tackle, apparel, and furniture, the said sum of six thousand nine hundred and eleven dollars and fifty-two cents, the amount so reported due by said commissioners,
together with interest thereon from the date of the said re-
226 port, together with their costs to be taxed, and that the
said barque Griffin, her tackle, apparel, and furniture be condemned therefor.

And these appellants are advised and insist that the said decrees are erroneous, inasmuch as the libellants were not entitled to recover any damages for the said 132 boxes of chairs and furniture mentioned in the said bill of lading, and were not entitled to recover any sum or amount of damages whatever on the said bill of lading, or in this action.

And these appellants appeal from the whole of the said
227 final decree in favor of the libellants to the next circuit
court to be held in the said district; and on the said appeal they intend to make the same and also new allegations in the

circuit court, and that they will introduce the same and new and further proofs and evidence.

And these appellants pray that the said decrees and every part thereof may be reversed with costs, or that such other decrees be thereupon made as to the said circuit court shall seem just;
228 and that the said appellees be condemned to pay these appellants their costs and damages in the premises.

And these appellants pray that the record and proceedings may be returned to the said circuit court.

NELSON CHASE,
Proctor for all of Appellants except John Howland.
JOHN HOWLAND,
Appellant in person.
NELSON CHASE, *Advocate.*

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Francis T. Shankland, of the city of New York, being duly sworn, says, that on the 17th day of March, 1856, he served a copy of the foregoing appeal on Weeks & De Forrest, esqs., the proctors of the appellees, by delivering the same to Mr.
229 Weeks, one of the firm of Weeks & De Forrest aforesaid, at their office, No. 58 Wall st., N. Y. city.

FRANK T. SHANKLAND.

Subscribed and sworn to the 17th day of March, 1856, before me.

GEO. W. MORTON,
U. S. Com'r.

Endorsed: 10. 522. In Admiralty. U. S. Circuit Court for the southern district of New York. John Greenway and George C. Dickson, libellants and appellees, vs. the barque Griffin, her tackle, &c., and O. S. Halsted, jr., and others, claimants and resp'dts and app'lnts. Petition of appeal from the district to the circuit court of the U. S. for the southern dist. of New York. Nelson Chase, proctor for all appellants except John Howland. John Howland, appellant in person. Filed March 17th, 1856.

230 Let an order be entered extending the time ten days to file and perfect the appeal in this cause.

SAMUEL R. BETTS.

March 18th, 1856.

At a special term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on Thursday, the 25th day of September, in the year of our Lord one thousand eight hundred and fifty.

Present, the honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

John Greenway et als., Libellants and Appellees,
vs.
The Barque Griffin, &c., Respondents and Appellants.

This cause coming on to be heard—

Mr. Lord reads evidence from the Apostles, on the part of the libellants.

Mr. Stoughton reads evidence from the Apostles, on the part of the respondents.

Mr. De Forest is heard on part of libel't and appellee.

Mr. Stoughton " " resp't and appel't.

Mr. Lord is heard in reply.

231 Cur. adv. vult.

At a special term of the circuit court of the United States of America for the southern district of New York, in the second circuit, held at the City Hall, in the city of New York, on the twentieth day of September, in the year of our Lord one thousand eight hundred and fifty-eight.

Present, the Honorable Samuel Nelson, an associate justice of the Supreme Court of the United States.

John Greenway and George C. Dickson, Appellees,
vs.
The Barque "Griffin," her tackle, &c., Oliver S. Halsted, James Smith, John Kennedy, Samuel Meeker, John Chadwick, and John Howland, owners of said barque, Appellants.

This case coming on to be heard upon the proofs produced, and having been argued by the advocates of the respective parties, and due deliberation having been had in the premises, it is ordered, adjudged, and decreed that the decree of the district court be and the same hereby is in all things affirmed; and that the libellants recover of the claimants the sum of six thousand nine hundred and eleven dollars and fifty-two cents, the amount reported
232 due by the commissioner, together with interest thereon
from the 31st day of July, A. D., 1855; and also their taxed costs in the said district court, with interest on the same from the date of their taxation, and also their costs in this circuit court to be taxed. And it is further ordered, that a summary judgment be and the same is hereby entered against the claimants' stipulators for costs and value. And it is further ordered, that unless an appeal be taken herein within the time limited and prescribed by the rules of this court, that execution on behalf of the said libellants issue against the claimants and their stipulators herein.

S. NELSON.

233 Endorsed: U. S. Circuit Court southern district of New York. John Greenway et al. vs. The barque "Griffin," her tackle, &c. Decree. Weeks & De Forrest, proctors for libellant and appellees, New York. Filed Sept. 20, 1858.

Circuit Court of the United States for the southern district of New York.

JOHN GREENWAY and GEORGE C. DICKSON, Libellants,
vs.
THE BARK GRIFFIN, HER TACKLE, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr., Respondents.

The above named respondents, conceiving themselves agrieved by the final sentence or decree entered on the 20th day of September, A. D. 1858, in the above entitled cause, do hereby appeal therefrom to the Supreme Court of the United States, and 234 they pray that this their appeal may be allowed, and that a transcript of the record, proceedings, and evidence in the cause, duly authenticated, may be sent to the said Supreme Court.

Dater September 27, 1858.

NELSON CHASE,
Proctor for Respondent and Appellants.

Endorsed: Circuit Court of the United States for the southern district of New York. John Greenway and George C. Dickson, libel't, and the bark Griffin, her tackle, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halstead, 235 jr., resp'd'ts. Notice of appeal. Nelson Chase, proctor for respondents and appellants. Filed Sept. 27, 1858.

United States Circuit Court for the southern district of New York.

JOHN GREENWAY and GEORGE C. DICKSON
and
THE BARK GRIFFIN, HER TACKLE, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr.

To the honorable the Supreme Court of the United States:

The appeal of the above respondents respectfully shows, that the libellants, John Greenway and George C. Dickson, did file their libel in the district court of the United States for the southern district of New York against the barque Griffin, her tackle, apparel, &c., in a cause, civil and maritime, for the recovery of damages alleged to have been sustained by them by reason of the non- 236 delivery of one hundred and thirty-two boxes of furniture, claimed to have been shipped on board of said bark, to be delivered in accordance with the terms of a bill of lading given

therefor by the captain of said bark at the port of Rio de Janeiro, in South America; and that the said bark Griffin was arrested upon process issued upon said libel, and was discharged upon your petitioners, the respondents above named, filing their claim and
entering into stipulations; and your petitioners thereupon
237 filed their answer to said libel, and the said libellants replied thereto, and such proceedings were had in the said cause that a final decree was made and pronounced therein by the said district court, wherein it was, in substance, adjudged that the said libellants recover against the said bark Griffin, her tackle, &c., the sum of   , together with costs; and after such final decree, your petitioner duly appealed therefrom to the circuit court of the United States for the southern district of New York,
and the said cause was removed thereby into the said circuit
238 court, and there tried anew; and such proceedings were had in the said circuit court, that afterwards, and in the month of September, 1858, the said circuit court made a final decree in the said cause, whereby it was decreed that the said decree of the district court be in all things affirmed with costs, and that the said appellees have execution, and that the stipulators cause their stipulations to be fulfilled, which said decree of the said circuit
court is, as these appellants are advised, erroneous, and
239 ought to be reversed.

Wherefore these appellants appeal from the whole of said decree of said circuit court, and respectfully pray that the libel, answer, pleadings, depositions, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the circuit court, and every part thereof, may be reversed, and a decree made dismissing said libel, with costs, or such other decree as to the Supreme Court shall seem just.

239 Dated New York, Sept. 30, 1858.

NELSON CHASE,
Proctor for Appellants.

Endorsed: U. S. circuit court for the southern district of New York. The barque Griffin, her tackle, &c., John Howland, Samuel Meeker, John Chadwick and Oliver S. Halsted, jr., appellants, and John Greenway and George C. Dickson, appellees. Petition of appeal. Nelson Chase, proctor for appellants. Filed Sept. 30, 1858.

Circuit Court of the United States of America for the southern district of New York, in the second circuit.

JOHN GREENWAY and GEORGE C. DICKSON,
Libellants,
vs.
THE BARK GRIFFIN, HER TACKLE, &c., John Howland, Samuel Meeker, John Chadwick and Oliver S. Halsted, jr., Respondents.
} Bond for Costs.

Know all men by these presents, that we, John H. Harbeck and William H. Harbeck of the city of New York, are held and firmly bound unto the above named libellants in the sum of four-
240 teen thousand dollars, to be paid to the said libellants; for the payment of which, well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated the tenth day of November, in the year of our Lord one thousand eight hundred and fifty-eight.

Whereas the above named respondents have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above entitled suit, by the judge of the circuit court of the United States for the southern district of New York:

Now, therefore, the condition of this obligation is such, that if the above named respondents shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

JOHN H. HARBECK, [SEAL.]
WILLIAM H. HARBECK. [SEAL.]

Sealed and delivered, and taken and acknowledged, this 10 day of Nov'r, 1858, before me.

241 CHAS. W. NEWTON,
U. S. Com'r.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

John H. Harbeck and William H. Harbeck, being duly sworn, do depose and say, each for himself, that he is worth the sum of fourteen thousand dollars over and above all his just debts and liabilities.

JOHN H. HARBECK,
WM. H. HARBECK.

Sworn to this 10 day of Nov'r, A. D. 1858, before me.

CHAS. W. NEWTON,
U. S. Com'r.

I approve of the above named sureties as sufficient security upon the within bond.

New York, Nov. 11, 1858.

SAM'L R. BETTS.

Filed this 11 day of Nov'r, 1858.

242 By the Honorable Samuel R. Betts, one of the judges of the circuit court of the United States for the southern district of New York, in the second

To John Greenway and George C. Dickson:

Whereas the bark Griffin, her tackle, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halstead, jr., have lately appealed to the Supreme Court of the United States from a decree rendered in the circuit court of the United States for the southern district of New York, in the second circuit, on the twentieth day of September, 1858, wherein the said John Greenway and
243 George C. Dickson are libellants against the bark Griffin, her tackle, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr., respondents, and have filed the security requested by law, you are, therefore, hereby cited to appear before the said Supreme Court, at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice, to be done in the premises.

Given under my hand at the city of New York, the 11th
243 day of November, in the year of our Lord one thousand eight hundred and fifty-eight, and *in* the independence of the United States the eighty-third.

SAM. R. BETTS.

Endorsed: U. S. circuit court. John Greenway and George C. Dickson, libellants, vs. The bark Griffin, her tackle, &c., John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr., respondents. "Citation." Nelson Chase, proctor for resp'dt.

We hereby admit notice and service of the within citation to have been served this 11th Nov., 1858.

WEEKS & DE FORREST,
Lib'lnts' Pro.

Filed Nov. 11, 1858.

United States Circuit Court for the southern district of New York.

John Greenway and George C. Dickson,
Libellants,
vs.
The Barque Griffin, her tackle, &c.,
John Howland, Samuel Meeker, John Chadwick, and Oliver S. Halsted, jr., Appellants. 244